

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

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.,

Defendants.

Civil Action No. 23 CV 1057

NORTH CAROLINA STATE CONFERENCE OF
THE NAACP, et al.,

Plaintiffs,

v.

PHILIP BERGER, in his official capacity as the
President Pro Tempore of the North Carolina
Senate, et al.,

Defendants.

Civil Action No. 23 CV 1104

DECLARATION OF HILARY HARRIS KLEIN

I, Hilary Harris Klein, declare as follows:

1. I am more than 18 years of age, am of sound mind, and am otherwise competent to give this Declaration.

2. I am counsel for the North Carolina NAACP, Common Cause, Mitzi Reynolds Turner, Dawn Daly-Mack, Hollis Briggs, Corine Mack, Calvin Jones, Linda Sutton, and Syene Jasmin (“NAACP Plaintiffs”) in the above-captioned action.

3. This declaration is based on my personal knowledge and/or my review of correspondence and documents produced in this case.

4. NAACP Plaintiffs served Legislative Defendants with written discovery requests, including a Request for Production of Documents and Interrogatory Requests, on April 24, 2024, two days after the date on which the parties agreed discovery would open in this matter (April 22, 2024).

5. NAACP Plaintiffs did not receive service of any written discovery requests from Legislative Defendants until June 11, 2024, which was approximately seven weeks after the parties had agreed written discovery would open.

6. A true and correct copy of Legislative Defendants’ June 11 Discovery Requests is appended to this Declaration as **Exhibit A**.

7. Legislative Defendants’ Interrogatory Request 4 made the following request on North Carolina NAACP and Common Cause (the “Organizational Plaintiffs”):

For each of the Organizational Plaintiffs, please state or identify:

(a) The members of your organization living in each challenged Congressional, state Senate, and state House district whose standing you will assert and the corresponding district(s) in which they reside; and

(b) All facts and documents on which you intend to rely to support your organization's standing, including but not limited to allegations of "harm" resulting from the 2023 Plans with respect to each challenged district in your Complaint.

8. NAACP Plaintiffs timely responded to Legislative Defendants' discovery requests on July 11, 2024, and followed up on July 12, 2024, with a corrected response that included a slight correction to the middle name of one Plaintiff, in which the original response had inadvertently omitted a letter.

9. A true and correct copy of NAACP Plaintiffs' corrected July 11 Discovery Responses, redacted of information designated Confidential, is appended as **Exhibit B**.¹

10. Soon after receiving Legislative Defendants' requests on June 11, 2024, I conferred with each plaintiff regarding Legislative Defendants' requests. I specifically conferred with representatives of the Organizational Plaintiffs on the requests for membership information. These conversations, along with my own legal research, informed the responses provided on July 11, including the assertion of First Amendment privileges.

11. I also began working diligently with my co-counsel and clients in this matter to identify relevant custodians and search parameters to conduct document and informational searches in response to Legislative Defendants' discovery requests. To date, we have collected over 4,600 documents from 42 different custodial accounts, producing over 1,855 pages of material in rolling productions that began on August 19, 2024.

¹ I would be happy to file an unredacted version of this document, pursuant to the Protective Order, Dkt. 55, and the sealing procedures under the Local Rules, if the Court would find it helpful in the disposition of NAACP Plaintiffs' Motion for a Protective Order.

12. I have gone back and reviewed my correspondence with counsel for Legislative Defendants in this matter, and I have been unable to identify substantive communications conveying concerns with NAACP Plaintiffs' discovery responses until eight weeks after we sent our responses, when we received a letter from counsel for Legislative Defendants on September 5, 2024. A true and correct copy of this letter is appended as **Exhibit C**.

13. In their September 5 discovery letter, Legislative Defendants disputed NAACP Plaintiffs' assertion of First Amendment privilege over membership names. Exhibit C at 2–3. Legislative Defendants asserted a concern of having “no way of verifying anything about Organizational Plaintiffs' members whose standing they assert,” which confused me because they had not yet noticed any depositions to our Organizational Plaintiffs in which they could ask how these members were identified. Otherwise, Legislative Defendants did not represent they would be challenging Organizational Plaintiffs' standing at summary judgment or trial in this matter in their letter. This was consistent with their failure to challenge standing before filing an Answer, which also did not list lack of standing as an affirmative defense.

14. NAACP Plaintiffs responded to Legislative Defendants on September 20, 2024. A true and correct copy of this letter is appended as **Exhibit D**.

15. In the September 20 response letter, NAACP Plaintiffs offered to provide to Legislative Defendants the evidentiary support for the specific members of the Organizational Plaintiffs identified in challenged districts “in the format of organizational affidavits, establishing that specific members were confirmed in the challenged districts

listed and that the public disclosure of membership information would have a chilling effect in violation of the First Amendment.” Exhibit D at 3. We offered this because Legislative Defendants had not yet deposed the Organizational Plaintiffs, otherwise I imagine this information would have been provided in the form of deposition testimony.

16. In our September 20 discovery letter, NAACP Plaintiffs also requested a meet and confer at Defendants’ earliest convenience to confirm that the production of organizational affidavits would resolve Legislative Defendants’ requests for the basis of associational standing in specified districts. NAACP Plaintiffs also noted they remained “open minded to finding a mutually-acceptable agreement on this issue.” *Id.* at 3–4.

17. On September 25, 2024, counsel for Legislative Defendants offered times for a meet and confer the following day, and I accepted. A true and accurate copy of this correspondence is provided in **Exhibit E**.

18. On September 25, 2024, I also provided via email a declaration from North Carolina State Conference of the NAACP President Deborah Dicks Maxwell addressing the identification of specific NAACP members in challenged districts as well as the basis for asserting First Amendment privilege over membership identities. A true and accurate copy of this declaration is in **Exhibit F**.

19. On September 26, 2024, I engaged in a meet and confer via virtual video conference with counsel for Legislative Defendants regarding their discovery requests and the NAACP Plaintiffs’ responses. Legislative Defendants’ counsel Katherine McKnight, Erika Prouty, and Cassie Holt were present, as were Mark Haidar and

Narendra Ghosh from the Williams Plaintiffs, and myself and Madeleine Bech on behalf of NAACP Plaintiffs.

20. In the September 26 meet and confer, Ms. McKnight conveyed that Legislative Defendants felt they had an October 4, 2024, “cutoff date” for receiving the identities of specific organizational members before they would assert a prejudice in not having this information because they intended to depose non-party members that would be identified. When I asked what information would be sought in those depositions, Ms. McKnight conveyed they would ask questions regarding “anything relevant to standing” as well as “any matter relevant” to the case.

21. Ms. McKnight also conveyed during the meet and confer that Legislative Defendants intended to challenge Organizational Plaintiffs’ associational standing in this matter. To the best of my recollection, that is the first time Legislative Defendants conveyed that intent.

22. In response, I made clear NAACP Plaintiffs objected to the October 4 deadline, emphasizing that Legislative Defendants waited to issue discovery requests in this matter and then nearly two months to raise objections to Plaintiffs responses. In a good faith effort to resolve Legislative Defendants’ concerns, I asked whether they would instead accept voting records for the individual members identified, reflecting their self-designated race, status as an active voter, and voting districts, in addition to testimony from organizational representatives specifying how these members were identified. These voting records are available from the “Voter Search” tool maintained by the North Carolina State Board of Elections (<https://vt.ncsbe.gov/reglkup/>) and NAACP Plaintiffs

had already provided such records, unredacted, for the Individual Plaintiffs. An example of such a redacted record is provided in Exhibit J. Ms. McKnight declined.

23. On September 27, 2024, Legislative Defendants sent a letter following up on the meet and confer conveying again their position on this matter. A true and accurate copy of this letter is in **Exhibit G**.

24. On October 2, 2024, I responded to Legislative Defendants to convey that NAACP Plaintiffs intended to seek clarification from the Court on this matter and would do so on October 4 because of Legislative Defendants' assertion they would experience prejudice after this date, while also noting we disputed that assertion and instead attributed the timing of this issue to Legislative Defendants' own lack of diligence in discovery. Exhibit E.

25. I also provided to Legislative Defendants on October 2 a supplemental declaration from President Maxwell addressing the impact that depositions of non-party members would have on the North Carolina NAACP and its members. A true and accurate copy of this Second Maxwell Declaration is in **Exhibit H**.

26. I also provided to Legislative Defendants on October 2 a declaration from the Executive Director of Common Cause North Carolina, Bob Phillips, addressing how Common Cause members were identified in challenged districts and the impact that disclosure of member identities and depositions would have on the organization and its members. A true and accurate copy of this declaration is in **Exhibit I**.

27. Also in my October 2 email, and in a second good faith attempt to resolve this issue without seeking court intervention, I conveyed to Legislative Defendants a

proposal to resolve this issue by providing specific organizational member voting records reflecting their self-designated race, city, zip code, party affiliation, voting history, and current voting districts but redacted of personally identifying information (including redacting the name, street address (but not town or zip code), Voter Registration Number, and NCID), in exchange for an agreement that Defendants will not seek to depose any members who are not otherwise disclosed by name to Defendants, and a stipulation from Defendants that Organizational Plaintiffs have established that specific individual members reside in those districts. I conveyed that NAACP Plaintiffs would need at least two weeks to seek permission to disclose this information from individual members. I also conveyed that NAACP Plaintiffs would also agree not to call any members who are not otherwise disclosed by name to Defendants at trial, unless ordered by the Court to establish standing, and limiting their testimony to confirm (1) their membership in the organization and (2) that they are an eligible voter identifying as Black/African American in a challenged district intending to vote. Finally, I reiterated that Organizational Plaintiffs remained available for depositions on standing pursuant to Rule 30(b)(6) and noted that, to date, we had not received notices for such depositions. Exhibit E at 1.

28. Legislative Defendants declined this offer via email on October 4, 2024. Legislative Defendants also asserted that they would continue to oppose NAACP Plaintiffs' assertion of First Amendment privilege and seek relief in the future including objecting to the evidence NAACP Plaintiffs have indicated they intend to use to establish standing here and "alteration of case deadlines, including the trial date." They also reiterated their entitlement to "examine witnesses on whom Plaintiffs rely for standing in

this matter,” which NAACP Plaintiffs understand as a confirmation they intend to depose any non-party members disclosed to them. Exhibit E.

29. To date, I have not received any notices to depose representatives of the Organizational Plaintiffs from Legislative Defendants in this matter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on October 4, 2024.

/s/ Hilary Harris Klein
Hilary Harris Klein

CERTIFICATE OF SERVICE

I certify that on October 4, 2024, I electronically filed the foregoing and its exhibits with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Hilary Harris Klein
Hilary Harris Klein

EXHIBIT A

Legislative Defendants' Discovery Requests

**IN THE UNITED STATES DISTRICT COURT
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SHAUNA WILLIAMS; *et al.*,

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President Pro Tempore of the North Carolina
Senate; *et al.*,

Defendants.

Civil Action No. 23-CV-1104

**LEGISLATIVE DEFENDANTS' FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO NAACP PLAINTIFFS**

Defendants Representative Destin Hall, Senator Ralph Hise, Senator Paul Newton, Senator Warren Daniel, Speaker Timothy K. Moore, and President Pro Tempore Philip E. Berger, each in their official capacities (collectively, "Legislative Defendants"), by and through undersigned counsel and pursuant to Rules 26, 33 and 34 of the Federal Rules of Civil Procedure, serve their First Set of Interrogatories and Requests for Production of Documents on Plaintiffs in the above-

captioned consolidated matters. Legislative Defendants request that Plaintiffs respond to the following within 30 days:

DEFINITIONS

For purposes of responding to these Interrogatories and Document Requests, the common usage of a word or term should apply unless the word or term is otherwise defined. The following definitions are operative unless the text of a specific Interrogatory or Document Request clearly indicates that a different meaning is intended:

1. “Communication” means the delivery or transfer of information of any type, regardless of whether it involves face-to-face conversations, conferences, telephone conversations, written communications and correspondence, electronic communications or correspondence, computerized communications or correspondence, or any other means.

2. “*Williams* Plaintiffs” means all named Plaintiffs in Civil Action No. 1:23-CV-1057.

3. “*NAACP* Plaintiffs” means all named Plaintiffs in Civil Action No. 1:23-CV-1104, which has been consolidated with Civil Action No. 1:23-CV-1057.

4. “Complaint” means the Complaint filed by Plaintiffs in the above-captioned actions. As to *Williams* Plaintiffs, this means the Amended Complaint filed on March 4, 2024, D.E. 30. As to *NAACP* Plaintiffs, this means the Complaint filed on December 19, 2023, D.E. 1.

5. The term “Legislative Defendants” means Defendants Representative Destin Hall, Senator Ralph Hise, Senator Paul Newton, Senator Warren Daniel, Speaker Timothy K. Moore, and President Pro Tempore Philip E. Berger, each in their official capacities, as named in the above-caption actions.

6. The term “document,” whether singular or plural, is used herein in the broadest sense of the term and means each and every writing of whatever nature, and shall mean the original

and any draft or copy which differs in any way from the original of any written or graphic matter, however produced or reproduced, and shall mean, without limitation, each and every tangible thing from which information can be processed or transcribed from disk, diskette, compact disc, tape or other electronic media or data computations. The term includes, but is not limited to, letters, electronic mail (“email”) and any attachments, messages, text messages, facsimile transmissions, telegrams, memoranda, handwritten notes, reports, books, agreements, correspondence, contracts, financial statements, instruments, ledgers, journals, accountings, minutes of meetings, payrolls, studies, statements, calendar and diary entries, notes, charts, schedules, tabulations, maps, work papers, brochures, evaluations, memoranda of telephone conversations, audio and video recordings, internal communications, bills, tapes, computer printouts, drawings, designs, diagrams, exhibits, photographs, reproductions, any marginal comments appearing on any document and copies of documents which are not identical duplicates of the originals (e.g., because handwritten or “blind copy” notes or notations appear thereon or are attached thereto). The term “document(s)” includes the defined terms, “Communication” and “Electronically-Stored Information,” as defined herein.

7. The term “Electronically-Stored Information” or “ESI” means any and all electronic data or information stored on a computing device. Information and data is considered “electronic” if it exists in a medium that can only be read through the use of a computing device. This term includes but is not limited to databases; all text file and word processing documents (including metadata); presentation documents; spreadsheets; graphics, animations, and images (including but not limited to “JPG, GIF, BMP, PDF, PPT, and TIFF files); email, email strings, and instant messages (including attachments, logs of email history and usage, header information and “deleted” files); email attachments; calendar and scheduling information; cache memory; Internet

history files and preferences; audio; video, and audiovisual recordings; voicemail stored on databases; networks; computers and computer systems; computer system activity logs; servers; archives; back-up or disaster recovery systems; hard drives; discs; CDs; diskettes; removable drives; tapes; cartridges and other storage media; printers; scanners; personal digital assistants; computer calendars; handheld wireless devices; cellular telephones; pagers; fax machines; and voicemail systems. This term includes but is not limited to onscreen information, system data, archival data, legacy data, residual data, and metadata that may not be readily viewable or accessible, and all file fragments and backup files.

8. The words “identify” or “specify” as related to a person mean, in each instance, to state his or her full name, present or last known address, and telephone number.

9. The words “identify” or “specify” as related to a document mean, in each instance, the document should be identified with sufficient specificity to form the basis of a request pursuant to Rule 34 of the Rules of Civil Procedure, including the date, author, type of document, and the present location and custodian of the document.

10. The term “Individual Plaintiffs” refers to all Plaintiffs except for the organizational plaintiffs as defined below.

11. The term “Organizational Plaintiffs” refers to the North Carolina State Conference of the NAACP and Common Cause.

12. The term “person” means natural persons, all corporate organizations, all private or governmental organizations, all associations, all other entities and the representatives of each natural person, organization or entity.

13. The term “Plaintiff” means the plaintiff to whom each Interrogatory and Document Request is addressed, and any persons acting or purporting to act on that person’s behalf.

14. The terms “relate to,” “pertain to,” “relating to,” and “regarding” mean discussing, constituting, embodying, concerning, reporting, regarding, establishing, evidencing, comprising, connected with, commenting on, responding to, showing, demonstrating, describing, setting forth, containing, analyzing, reflecting, presenting, refuting, mentioning, supporting, referring to, or being in any way factually connected with, directly or indirectly, the subject matter identified in the request, but does not include any information which may be subject to any privilege, including, but not limited to, attorney-client communications and attorney work product.

15. The word “you” or “your” means the plaintiff to whom each Interrogatory or Document Request is addressed and all other persons acting or purporting to act on that person’s behalf.

16. The term “2023 Plans” refers to the Congressional (SL 2023-145), state Senate (SL 2023-146), or state House (SL 2023-149) districting plans enacted by the North Carolina General Assembly in 2023.

17. The term “2023 redistricting process” refers to the redistricting process undertaken by the North Carolina General Assembly to modify the Congressional, State Senate, and state House districting plans used in the 2022 general election, including but not limited to the consideration of the configuration of one or more of the election district boundaries used to election congressional members of members of the state Senate and State House.

18. The term “alternative maps” includes any proposal, draft, concept, or configuration of any redistricting plan or any subpart of a redistricting plan that was generated, developed, and/or created in any way during the 2023 redistricting process. This shall include, but is not limited to, all plans or partial plans that were never incorporated into a full redistricting plan or redistricting bill, amendments that were discussed and/or drafted without being formally proposed or offered

in the legislative process, and verbal or textual descriptions of possible district lines and/or configurations that were never turned into actual maps and/or legislative language.

19. The term “Social Media” means any and all communications, documents, information, pictures, videos, audio files, and media written on, uploaded to, or posted to any mobile device, software application, website, business, or entity commonly known as a “social media” site or “app,” which includes but is not limited to Facebook, YouTube, Twitter, LinkedIn, Pinterest, Google Plus+, Tumblr, Instagram, Snapchat, WhatsApp, KIK, TikTok, Reddit, Signal, and Slack.

INSTRUCTIONS

The following instructions shall apply to these Interrogatories and Document Requests except as otherwise required by context:

1. You are required to answer these Interrogatories and Document Requests separately and fully in writing and to serve a copy of your answers on undersigned counsel for Legislative Defendants. Interrogatory responses must be answered under oath.
2. In answering these Interrogatories and Document Requests, you must furnish all requested information, not subject to valid objection, that is known by, possessed by, available to, or subject to reasonable access or control by you or any of your employees, attorneys, consultants, representatives, investigators, agents, and all others acting on your behalf.
3. For each Interrogatory and Document Request and subpart of each Interrogatory and Document Request, if the information furnished in your answer is not within personal knowledge of you or the person signing and verifying the answers to these Interrogatories and Document Requests, identify each person to whom the information is a matter of personal knowledge, if known.

4. If you are unable to answer fully any of these Interrogatories and Document Requests, you must answer them to the fullest extent possible, specifying the reason(s) for your inability to answer the remainder and stating whatever information, knowledge or belief you do have concerning the unanswerable portion.

5. These Interrogatories and Document Requests are continuing in nature. Accordingly, you are under a continuing duty to supplement your responses to these Interrogatories and Document Requests in a timely manner, and to amend a prior response if you obtain information or documents on the basis of which you know that the response was incorrect when made or that the response, though correct when made, is no longer true. Additionally, any information or documents created or obtained after you serve your responses to these Interrogatories and Document Requests must be produced to counsel for Defendants in supplemental responses and/or productions.

6. Words used in singular form shall include the plural form, and words used in the plural form include the singular form.

7. The connectives “and” and “or” will be construed either disjunctively or conjunctively as necessary to bring within the scope of each Interrogatory or Document Request all responses that otherwise might be construed to be outside of its scope.

8. If any Interrogatory or Document Request is objected to on the grounds of its being overly broad or unduly burdensome, state the manner in which it is overly broad or unduly burdensome and respond to the Interrogatory or Document Request as narrowed to conform to such objection.

9. For any document no longer in your possession, custody, or control, identify the document and the type of information contained within it, state whether it is missing, lost,

destroyed, transferred to others or otherwise disposed of, and identify any person who currently has custody or control of the document or who has knowledge of the contents of the document.

10. If any documents, communications, information, or other items are withheld on the ground of any privilege, provide a description of the basis for the claimed privilege and all information necessary for the Defendants to assess the claim of privilege, including but not limited to the following:

- a. the names and addresses of the speaker or author of the communication or document;
- b. the date of the communication or document;
- c. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
- d. the name and address of any person currently in possession of the information or document or a copy thereof; and
- e. the privilege claimed and specific grounds therefor.

INTERROGATORIES

INTERROGATORY NO. 1

Please state or identify: your full legal name, date of birth, and each address where you have resided in the past 8 years.

For each of the Organizational Plaintiffs, please state or identify:

- (a) Your organization's full legal name and any other names (including acronyms, pseudonyms, or assumed names) that you have used in the past 10 years; and
- (b) Whether your organization has members and, if so, the current qualifications for membership.

RESPONSE:

INTERROGATORY NO. 2

For all Plaintiffs: State whether you, your organization, or any organization of which you are a member has drawn or created any alternative maps to the 2023 Plans. If you have drawn or created such maps, identify each individual involved in the development of each map you created, the software used to draw or create each map, and describe the criteria you or your organization used to draw or create each map.

RESPONSE:

INTERROGATORY NO. 3

Identify each district you are challenging for each of your claims under Section 2 of the Voting Rights Act (Counts 1, 4, 6, 8, 10, 11), the Fourteenth Amendment (Counts 2, 3, 7), and the Fourteenth and Fifteenth Amendment (Counts 5, 9, 12).

RESPONSE:

INTERROGATORY NO. 4

For each Individual Plaintiff, describe in detail how you are allegedly harmed by the 2023 Congressional, state Senate, or state House district you are challenging for each of your claims under Section 2 of the Voting Rights Act (Counts 1, 4, 6, 8, 10, 11), the Fourteenth Amendment (Counts 2, 3, 7), and the Fourteenth and Fifteenth Amendments (Counts 5, 9, 12).

For each of the Organizational Plaintiffs, please state or identify:

- (a) The members of your organization living in each challenged Congressional, state Senate, and state House district whose standing you will assert and the corresponding district(s) in which they reside; and
- (b) All facts and documents on which you intend to rely to support your organization's standing, including but not limited to allegations of "harm" resulting from the 2023 Plans with respect to each challenged district in your Complaint.

RESPONSE:

INTERROGATORY NO. 5

For all Plaintiffs: Identify all persons or entities from whom you have obtained any written or oral statement, report, memorandum, or testimony (including via email or text message) concerning any matter related to the allegations contained in your Complaint from January 1, 2020 through the present.

RESPONSE:

INTERROGATORY NO. 6

For each Individual Plaintiff: Identify every organization (e.g. civic or non-profit), group, church, campaign (including your own campaign for political office, if any), political party, or political committee (including any of the Organizational Plaintiffs in this action) in which you are or were a member or in which you are or were otherwise involved during the last 8 years by stating the following:

- (a) the name of the organization, group, church, campaign, political party, or political committee;

- (b) the date your affiliation with the organization, group, church, campaign, political party, or political committee began and, if applicable, the date your affiliation ended;
- (c) any title, office, or position you hold or have held in the organization, group, church, campaign, political party, or political committee; and
- (d) whether you pay or paid dues, a membership fee, or any other sum of money to be a member or to be affiliated with the organization, group, church, campaign, political party, or political committee.

RESPONSE:

INTERROGATORY NO. 7

For all Plaintiffs: Except for your attorney, identify each person who participated in the preparation, factual investigation, and/or drafting of your responses to these Interrogatories or who you consulted, relied upon, or otherwise received information from in preparing your answers to these Interrogatories and specify each Interrogatory for which he/she participated in the preparation, factual investigation, and/or drafting of your responses or was consulted, relied upon, or otherwise constituted a source of information.

RESPONSE:

INTERROGATORY NO. 8

Identify all direct evidence supporting your allegations in Paragraphs 128 and 136 of the Complaint that “map-drawers” and others involved in the map-drawing process were “aware of” and “intended” the alleged “disparate impact of new district lines on Black voters.” The term “direct evidence” in this interrogatory holds the meaning of the term “direct evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234 (2024).

RESPONSE:

INTERROGATORY NO. 9

Excluding expert witness evidence to be sponsored under Federal Rule of Evidence 702, identify all circumstantial evidence supporting your allegations in Paragraphs 128 and 136 of the

Complaint that the “map-drawners” and others involved in the map-drawing process were “aware of” and “intended” the alleged “disparate impact of new district lines on Black voters.” The term “circumstantial evidence” in this interrogatory holds the meaning of the term “circumstantial evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234–36 (2024).

RESPONSE:

INTERROGATORY NO. 10

Identify all direct evidence supporting your allegations in Paragraphs 265, 280, and 290 of the Complaint that the 2023 Plans were “enacted with the intent to discriminate on the basis of race as a motivating factor” The term “direct evidence” in this interrogatory holds the meaning of the term “direct evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234 (2024).

RESPONSE:

INTERROGATORY NO. 11

Excluding expert witness evidence to be sponsored under Federal Rule of Evidence 702, identify all circumstantial evidence supporting your allegations in Paragraphs 265, 280, and 290 of the Complaint that the 2023 Plans were “enacted with the intent to discriminate on the basis of race as a motivating factor” The term “circumstantial evidence” in this interrogatory holds the meaning of the term “circumstantial evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234–36 (2024).

RESPONSE:

INTERROGATORY NO. 12

Identify all evidence supporting your allegations of intentional vote dilution against the 2023 Senate Plan, the 2023 House Plan, and Congressional Districts 1, 5, 6, 9, and 10 as set forth in Counts 4, 8, 10, and 11 of the Complaint.

RESPONSE:

INTERROGATORY NO. 13

Identify all witnesses you may call at any hearing or trial in this matter to present evidence supporting your allegations regarding the General Assembly's intent in drawing the 2023 Plans.

RESPONSE:

INTERROGATORY NO. 14

Identify the basis for alleging that racial considerations drove the General Assembly to draw Senate District 39, Senate District 42, House District 21, House District 34, House District 37, House District 41, House District 66, and House District 75 above the ideal population.

RESPONSE:

INTERROGATORY NO. 15

Identify what percentages of BVAP you consider to be a "High BVAP district[]" and to be a "Low BVAP district[]" as used Table 3 of Paragraph 185 of your Complaint.

RESPONSE:

INTERROGATORY NO. 16

Identify the basis for your alleged injury in House Districts 33, 38, 39, and 72 under the malapportionment doctrine under the Fourteenth Amendment, as alleged in Paragraphs 174-188 & 273 of the Complaint.

RESPONSE:

INTERROGATORY NO. 17

Identify the basis for your alleged injury in House Districts 27, 28, 29, 30, 31, and 32 under the malapportionment doctrine under the Fourteenth Amendment, as alleged in Paragraph 273 of the Complaint.

RESPONSE:

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1

To all Plaintiffs: Produce all documents identified in your answers to the above Interrogatories.

RESPONSE:

REQUEST FOR PRODUCTION NO. 2

To all Plaintiffs: Any non-privileged communications or documents created, received, or maintained by you that relate to the political performance of the 2023 Plans, any alternative maps, or any individual districts, in any form including, but not limited to, any and all estimates, reports, studies, analyses, notes, text messages, journals, diaries or other writings, videotapes, recordings or other electronically stored media.

RESPONSE:

REQUEST FOR PRODUCTION NO. 3

To all Plaintiffs: Any alternative maps created, received, or maintained by you related to North Carolina's 2023 redistricting process, and all documents or other electronically stored media relating to or otherwise supporting the creation of any alternative maps.

RESPONSE:

REQUEST FOR PRODUCTION NO. 4

To Organizational Plaintiffs: Excluding those documents protected by the attorney-client privilege, all documents reflecting or referring to any alleged "harm" or "injury" you claim to have suffered as a result of the 2023 Plans, including but not limited to financial records, communications, emails, notes, text messages, or recordings.

To Individual Plaintiffs: Excluding those documents protected by the attorney-client privilege, all documents reflecting or referring to any conversation or communication you had with any third party about any alleged "harm" or "injury" you claim to have suffered as a result of the 2023 Plans,

including but not limited to, emails, notes, text messages, or recordings of any such conversations or communications.

RESPONSE:

REQUEST FOR PRODUCTION NO. 5

To all Plaintiffs: Copies of all posts, statuses, or direct messages made by you on any Social Media platform or other website that relate to or reflect any of the allegations or claims you have made in this lawsuit, or otherwise related to redistricting since January 1, 2020.

RESPONSE:

REQUEST FOR PRODUCTION NO. 6

To all Plaintiffs: Copies of all documents referenced in your Rule 26(a)(1) Initial disclosures.

RESPONSE:

REQUEST FOR PRODUCTION NO. 7

To all Plaintiffs: Copies of any source code, software parameters, or other backup data used or produced by any of your experts in connection with this litigation. This includes, but is not limited to, any EI codes, comparisons, data disaggregation, data reaggregations, algorithms, algorithm parameters, or any vignettes or other instructions relied upon to manipulate or instruct electronic programs/applications used by any of your experts in connection with this litigation. To the extent such items were not developed by your expert but are otherwise available, please identify the code, software, programs, or applications and the name(s) and contact information of the person or entity that created the code, software, programs, or applications.

RESPONSE:

This the 11th day of June, 2024.

BAKER & HOSTETLER LLP

Richard B. Raile*
DC Bar No. 1015689
Katherine L. McKnight*
Trevor Stanley*
1050 Connecticut Ave. NW
Suite 1100
Washington DC 20036
Ph: (202) 861-1500
rraile@bakerlaw.com
kmcknight@bakerlaw.com
tstanley@bakerlaw.com

Patrick T. Lewis*
Ohio State Bar No. 0078314
Key Tower
127 Public Square, Suite 2000
Cleveland, Ohio 44114
Ph: (216) 621-0200
plewis@bakerlaw.com

Erika D. Prouty*
Ohio State Bar No. 0095821
200 Civic Center Drive, Suite 1200
Columbus, Ohio 43215
Ph: (614) 462-4710
eprouthy@bakerlaw.com

* *Appeared via Special Notice*

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

By: /s/ Phillip J. Strach
Phillip J. Strach
North Carolina State Bar No. 29456
Alyssa M. Riggins
North Carolina State Bar No. 52366
Cassie A. Holt
North Carolina State Bar No. 56505
Alexandra M. Bradley
North Carolina State Bar No. 54872
301 Hillsborough Street, Suite 1400
Raleigh, North Carolina 27603
Ph: (919) 329-3800
phil.strach@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
cassie.holt@nelsonmullins.com
alex.bradley@nelsonmullins.com

Attorneys for Legislative Defendants

CERTIFICATE OF SERVICE

I hereby certify that the forgoing document was served by email on all counsel of record in this action.

This the 11th day of June, 2024.

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

/s/ Phillip J. Strach

Phillip J. Strach

N.C. State Bar No. 29456

EXHIBIT B

NAACP Plaintiffs' Discovery Responses

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

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his official
capacity as Chair of the House Standing Committee on
Redistricting, et al.,

Defendants.

Civil Action No. 23 CV 1057

NORTH CAROLINA STATE CONFERENCE OF THE
NAACP, et al.,

Plaintiffs,

v.

PHILIP BERGER, in his official capacity as the
President Pro Tempore of the North Carolina Senate, et
al.,

Defendants.

Civil Action No. 23 CV 1104

**NAACP PLAINTIFFS' RESPONSES AND OBJECTIONS TO
LEGISLATIVE DEFENDANTS FIRST INTERROGATORIES AND REQUESTS FOR
PRODUCTION OF DOCUMENTS**

RESPONSE TO INTERROGATORIES

Reservation of Rights

Plaintiffs are responding to Defendants' First Set of Interrogatories ("Interrogatories") based on the information currently available to them. Discovery, however, is not yet complete. Additional discovery and investigation may lead to additions to, changes in, or modification of these responses. Plaintiffs therefore reserve their right to supplement, amend, revise, correct, modify, or clarify these responses as additional information becomes available.

Plaintiffs make their objections and responses in accordance with their interpretation and understanding of these Interrogatories and in accordance with their current knowledge, understanding, and belief as to the facts and information available to them at the time of serving these responses. If Defendants subsequently provide an interpretation of any of their Interrogatories that differs from Plaintiffs' understanding of the same, Plaintiffs reserve their right to complete the discovery of facts in this case and to rely at trial or in any other proceeding on documents and information in addition to the information provided herein, regardless of whether such information is newly discovered or newly in existence. They also reserve the right to amend, revise, correct, modify, or clarify their responses to properly respond to any interpretation Defendants may give these Interrogatories.

Plaintiffs reserve their right to object on any grounds, at any time, to the admission or use of any response on any ground. Plaintiffs are also willing to meet and confer about any of their objections or responses.

General Objections

Plaintiffs, by and through their undersigned counsel and pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, provide the following objections and responses to Legislative Defendants' First Set of Interrogatories ("Interrogatories").

1. Plaintiffs object to the Interrogatories to the extent that they purport to impose obligations beyond, or otherwise inconsistent with, the Federal Rules of Civil Procedure, the Local Rules of this Court, or any other applicable laws, rules, or governing orders.

2. Plaintiffs object to the Interrogatories to the extent that they seek information protected by the attorney-client privilege, the work product doctrine, the joint defense or common interest privilege, any other applicable privilege or immunity, or any protective order, or that is otherwise exempted from discovery, or prohibited from disclosure by law, rules, or protective orders. Plaintiffs hereby assert all applicable privileges and protections to the extent implicated by the Interrogatories. Any disclosure of such privileged and/or protected information is inadvertent and is not intended to waive those privileges or protections. Plaintiffs reserve the right to request the return or destruction of any documents that contain any inadvertent disclosures of privileged or protected information.

3. Plaintiffs object to the Interrogatories as overbroad and unduly burdensome to the extent that they are not limited to a specific time period or scope of the case.

4. Plaintiffs object to the Interrogatories to the extent that they purport to impose an obligation on Plaintiffs to locate, obtain, and produce information that is not in Plaintiffs' possession, custody, or control.

5. Plaintiffs object to the Interrogatories to the extent that they require Plaintiffs to produce information that does not already exist and/or call for information in a format other than that in which it is ordinarily kept by Plaintiffs.

6. Plaintiffs object to the Interrogatories to the extent that they seek information available from public sources.

7. Plaintiffs object to the Interrogatories to the extent that they seek information beyond what is available from a reasonable search of Plaintiffs' files likely to contain relevant or responsive documents or information and from a reasonable inquiry of individuals likely to have information relevant to a claim or defense of any party or to the subject matter of this case.

8. Plaintiffs object to the Interrogatories to the extent they seek disclosure of Plaintiffs' confidential information. Any such information will be disclosed only subject to a negotiated Protective Order. Plaintiffs further object to the Interrogatories to the extent that they seek information subject to a confidentiality obligation owed to a non-party to this case, until such time that the non-party agrees to disclosure, or an appropriate court order is entered.

9. Plaintiffs object to the Interrogatories on the grounds and to the extent that they are overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs further object to the Interrogatories on the ground and to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account, for example, the needs of the case, the parties' resources, and the importance of the proposed discovery in resolving the issues at stake in the litigation. Plaintiffs further object to the Interrogatories to the extent they are cumulative of other discovery in this case; seek documents already in the possession, custody, or control of, or otherwise equally available to, the Defendants; or seek discovery more readily available through less burdensome means.

10. Plaintiffs object to these Interrogatories to the extent they seek information protected from disclosure under the First Amendment because such disclosure would intrude on or chill Plaintiffs' First Amendment rights, including the right to associate and to engage in the exchange of ideas, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958); *Whole Woman's Health v. Smith*, 896 F.3d 362 (5th Cir. 2018), as revised (July 17, 2018); *Perry v. Schwarzenegger*, 591 F.3d 1147 (9th Cir. 2010).

11. Plaintiffs object to the Interrogatories as premature to the extent that they seek information that will be the subject of expert testimony. Expert testimony will be disclosed in accordance with the schedule ordered by the Court.

12. Plaintiffs object to the Interrogatories to the extent that they seek legal conclusions. Furthermore, the Interrogatories requesting all evidence or the basis for a contention or legal conclusion present "mixed questions of law and fact" that "create disputes between the parties which are best resolved after much or all of the other discovery has been completed." Fed. R. Civ. P. 33, 1970 Advisory Comment Notes. Accordingly, Plaintiffs' responses should not be construed as a limitation on the proof that may be offered at trial. *See* Fed. R. Civ. P. 33, 1970 Advisory Comment Notes ("The general rule governing the use of answers to interrogatories is that under ordinary circumstances they do not limit proof.").

13. By responding to these Interrogatories, Plaintiffs do not waive any objections to the admission of these responses into evidence on the grounds of competence, relevance, materiality, or on any other proper grounds for objection at trial.

14. Except for facts explicitly admitted herein, no admission of any nature whatsoever is to be implied by or inferred from the responses below. Any answer or objection to an Interrogatory should not be taken as: (a) an agreement with, or acceptance or admission of, the

existence of any alleged facts set forth or assumed by such Interrogatory; (b) an agreement that Interrogatories for similar information or documents will be treated in a similar manner; or (c) an acceptance of, or agreement with, any of the definitions in the Interrogatories, to the extent that the definition or meaning of any defined term is at issue in this Litigation. An answer to part or all of any Interrogatory is not intended to be, and shall not be construed to be, a waiver of any part of any objection to the Interrogatory.

15. The above General Objections apply to each of the Interrogatories and are hereby incorporated into each of Plaintiffs' Specific Responses and Objections set forth below. Plaintiffs' Specific Responses and Objections may repeat or restate a General Objection for emphasis or some other reason; however, the failure to repeat or restate a General Objection in Plaintiffs' Specific Responses and Objections shall not constitute a waiver of any General Objection.

16. Plaintiffs' Responses and Objections are made to the best of their present knowledge, information and belief. Discovery in this case is ongoing. Plaintiffs reserve the right at any time to revise, correct, clarify, supplement and/or amend the objections or responses set forth herein as and when Plaintiffs ascertain new, better, additional or different information; and/or complete additional analysis relating to the claims and/or defenses in this litigation.

Objections to Definitions and Instructions

1. Plaintiffs object to each definition and instruction to the extent that it seeks information beyond that permitted by the Federal Rules of Civil Procedure or the Local Rules.

2. Plaintiffs object to the terms "you" and "your" to the extent that the terms seek information outside of Plaintiffs' possession, custody, or control.

3. Plaintiffs object to the definitions of "documents," "communications," and "social

media” to the extent that they purport to include forms of information not discoverable under the Federal Rules, Local Rules, or any other applicable authority. Plaintiffs further object to the definitions to the extent that they define a category of documents in an overbroad manner and/or request a production of documents which would be unduly burdensome or disproportionate to the needs of the litigation.

4. Plaintiffs object to Instruction Nos. 2 and 3 to the extent that they purport to seek information outside Plaintiffs’ possession, custody, or control. Plaintiffs further object to these instructions to the extent that they purport to seek information beyond what is available from a reasonable search.

Interrogatory No. 1

Please state or identify: your full legal name, date of birth, and each address where you have resided in the past 8 years.

For each of the Organizational Plaintiffs, please state or identify:

- (a) Your organization’s full legal name and any other names (including acronyms, pseudonyms, or assumed names) that you have used in the past 10 years; and
- (b) Whether your organization has members and, if so, the current qualifications for membership.

Objections:

Plaintiffs’ General Objections are incorporated by reference in this response.

Plaintiffs further object to this Request because subpart (a) seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs’ freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, and the internal deliberations of the Organizational Plaintiffs and their members would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information. Furthermore, the burden and expense of redacting or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter.

Plaintiffs object to this Interrogatory on the grounds that the request on Organizational Plaintiffs is compound and contains at least two distinct subparts that are not substantially related to be considered part of a single Interrogatory.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond as follows:

North Carolina NAACP:

- (a) Plaintiff North Carolina State Conference of the N.A.A.C.P. has held this full legal title for at least the past 10 years. It is also commonly known as the “North Carolina NAACP,” the “NC NAACP,” and the “NC NAACP State Conference.”
- (b) The North Carolina NAACP has over 10,000 members across 72 local branch chapters. Members are qualified as those who have voluntarily enrolled and have paid dues to the North Carolina NAACP.

Common Cause:

- (a) Plaintiff Common Cause has held its full legal title for at least the past 10 years. Within North Carolina, it is also commonly known as “Common Cause North Carolina” and “CCNC”.
- (b) Common Cause is a membership organization. In order to be an active member of Common Cause, an individual must have donated financially to the organization and/or taken an action with Common Cause in the last two years. Actions can include, but are not limited to, participating in a community event with Common Cause, volunteering as a Common Cause election observer, or advocating for a policy in support of Common Cause goals with an elected representative as part of an advocacy campaign.

NOTICE OF DESIGNATION OF CONFIDENTIAL INFORMATION:

Plaintiffs hereby designate the full legal name, address and birth date information of the individual plaintiffs provided in response to this Interrogatory as Confidential. This Protected Information that should not be publicly filed or otherwise disclosed, publicly or otherwise, by Legislative Defendants, as set forth in the [proposed] Stipulated Protective Order.

Mitzi Reynolds Turner:

- REDACTED
[REDACTED]
[REDACTED]

Dawn Daly-Mack:

- REDACTED

Hollis Briggs:

- REDACTED

Corine Mack:

- REDACTED

Calvin Jones:

- REDACTED

Joan Chavis: at the time of the filing of the Complaint, Ms. Chavis resided in Wake County as stated therein. *See* Complaint, Paragraph 23. She has very recently relocated to Harnett County. Accordingly, NAACP Plaintiffs will seek Defendants' consent to a motion to voluntarily dismiss Ms. Chavis from this case.

Linda Sutton:

- REDACTED

Syene Jasmin:

- REDACTED

END DESIGNATION OF CONFIDENTIAL INFORMATION

Interrogatory No. 2

For all Plaintiffs: State whether you, your organization, or any organization of which you are a member has drawn or created any alternative maps to the 2023 Plans. If you have drawn or created such maps, identify each individual involved in the development of each map you created, the software used to draw or create each map, and describe the criteria you or your organization used to draw or create each map.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this request to the extent it seeks information protected by the attorney-client and/or attorney work product privilege, including maps generated by or under the supervision of attorneys representing Plaintiffs in researching and litigating this matter, or draft expert materials protected under Rule 26 of the Federal Rules of Civil Procedure. Similarly, Plaintiffs object to this Interrogatory to the extent it seeks to compel the disclosure of expert materials before the August 1, 2024, expert disclosure deadline or before any remedial stage of this litigation.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs confirm that no Plaintiff has created or drawn any alternative map to the 2023 Plans.

Interrogatory No. 3

Identify each district you are challenging for each of your claims under Section 2 of the Voting Rights Act (Counts 1, 4, 6, 8, 10, 11), the Fourteenth Amendment (Counts 2, 3, 7), and the Fourteenth and Fifteenth Amendment (Counts 5, 9, 12).

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this interrogatory because it seeks to require Plaintiffs to regurgitate portions of their Complaint or to present legal conclusions at this stage in the litigation in which discovery is ongoing.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond that the following districts are challenged under Section 2 of the Voting Rights Act, the Fourteenth Amendment, and the Fourteen and Fifteenth Amendment:

2023 Senate Plan

The specific Senate districts challenged are set forth in pages 41 through 51 of the Complaint, as well as enumerated Counts 1 through 5 on pages 73 through 79 of the Complaint, including:

- Challenges to Senate Districts 1 and 2 under the discriminatory results test of Section 2 of the Voting Rights Act (Count 1);
- Challenges to Senate Districts 7 and 8 as impermissible racial gerrymanders in violation of the Fourteenth Amendment (Count 2);
- Challenges to Senate Districts 7, 8, 38, 39, 40, 41 and 42 as malapportioned in violation of the Fourteenth Amendment (Count 3).

Plaintiffs also allege that these specific districts, as well as the 2023 Senate Plan overall, violate the prohibition on intentional vote dilution under Section 2 of the Voting Rights Act (Count 4) and the prohibition on intentional discrimination under the Fourteenth and Fifteenth Amendments (Count 5).

2023 House Plan:

The specific House districts challenged are set forth in pages 51 through 61 of the Complaint, as well as enumerated Counts 6 through 9 on pages 79 through 83 of the Complaint, including:

- Challenge to House Districts 4, 5, 7, 10, 12, 24, 25 and 32 under the discriminatory results test of Section 2 of the Voting Rights Act (Count 6);
- Challenge to House Districts 11, 21, 33, 34, 35, 36, 37, 38, 39, 40, 41, 49, 66, 71, 72, 74, 75 and 91 as malapportioned in violation of the Fourteenth Amendment (Count 7). As a point of clarification, Paragraph 273 of the Complaint has a typographical error listing “House Districts 27 through 34, and House Districts 71, 72, 74, 75, and 91” as the subject of Plaintiffs’ malapportionment challenge in Count 7; this is incorrect, and should have instead mirrored those districts identified above and which are specified in the body of the Complaint at Paragraphs 174 through 188 instead.

Plaintiffs also allege that these specific districts, as well as the 2023 House Plan overall violate the prohibition on intentional vote dilution under Section 2 of the Voting Rights Act (Count 8) and the prohibition on intentional discrimination under the Fourteenth and Fifteenth Amendments (Count 9).

2023 Congressional Plan

The specific Congressional districts challenged are set forth in pages 61 through 64 of the Complaint, as well as enumerated Counts 10 through 12 on pages 83 through 85 of the Complaint, including:

- Challenge to Congressional District 1 as violating the prohibition on intentional vote dilution under Section 2 of the Voting Rights Act (Count 10);
- Challenge to Congressional Districts 5, 6, 9, and 10 as violating the prohibition on intentional vote dilution under Section 2 of the Voting Rights Act (Count 11).

Plaintiffs also allege that these specific districts, as well as the 2023 Congressional Plan overall violate the prohibition on intentional discrimination under the Fourteenth and Fifteenth Amendments (Count 12).

As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request upon additional information and investigation.

Interrogatory No. 4

For each Individual Plaintiff, describe in detail how you are allegedly harmed by the 2023 Congressional, state Senate, or state House district you are challenging for each of your claims under Section 2 of the Voting Rights Act (Counts 1, 4, 6, 8, 10, 11), the Fourteenth Amendment (Counts 2, 3, 7), and the Fourteenth and Fifteenth Amendments (Counts 5, 9, 12).

For each of the Organizational Plaintiffs, please state or identify:

- (a) The members of your organization living in each challenged Congressional, state Senate, and state House district whose standing you will assert and the corresponding district(s) in which they reside; and
- (b) All facts and documents on which you intend to rely to support your organization's standing, including but not limited to allegations of "harm" resulting from the 2023 Plans with respect to each challenged district in your Complaint.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this interrogatory because it seeks to require Plaintiffs to regurgitate portions of their Complaint or to present legal conclusions at this stage in the litigation in which discovery is ongoing.

Plaintiffs further object to this Interrogatory on the grounds that the request on Organizational Plaintiffs is compound and contains at least two distinct subparts that are not substantially related to be considered part of a single Interrogatory.

Plaintiffs further object to this Request because subpart (a) seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, and the internal deliberations of the Organizational Plaintiffs and their members, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information.

Furthermore, the burden and expense of redacting or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter.

Plaintiffs further object to this Request because subpart (b) requesting “all facts and documents on which you intend to rely to support . . . allegations of ‘harm’” is beyond the scope of permissible discovery and unduly burdensome. Organizational Plaintiffs assert only representational standing in this matter as a representative of its members, which does not require a show of “harm” *per se* but rather demonstration that (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Hunt v. Washington State Apple Advertising Comm’n*, 432 U.S. 333, 343 (1977).

Plaintiffs further object to this Request because subpart (b) is a blockbuster interrogatory attempting to require Plaintiffs to marshal all their evidence at this stage in the litigation, contrary to what is required under the Federal Rules of Civil Procedure. Plaintiffs will produce the Documents, data, and other evidence in support of their claims in this lawsuit according to the applicable scheduling order, the Federal Rules of Civil Procedure, and the Federal Rules of Evidence.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond as follows:

Plaintiff North Carolina NAACP has, as of the date of this disclosure, identified members who identify as Black or African American and are registered voters in at least the following districts: 2023 Senate Plan districts 1, 2, 8 & 41; 2023 House Plan districts 5, 9, 10, 12, 23, 24, 27, 32, 37 & 71; and 2023 Congressional Plan districts 1, 3, 5, 6 & 10. This includes members who identify as Black or African American and are registered voters in the following counties: Vance County; Warren County; Halifax County; Northampton County; Hertford County; Gates County; Pasquotank County; Bertie County; Wilson County; Edgecombe County; Martin County; Pitt County; Greene County; Lenoir County; Wayne County; New Hanover County; Mecklenburg County; Wake County; and Forsyth County. These areas are far from the only areas in which North Carolina NAACP has members. As needed to maintain standing, the North Carolina NAACP will work to identify members living in these and other areas of the state who are registered voters and identify as Black or African-American.

The North Carolina NAACP seeks to protect the interests of these members to vote under lawful and constitutional voting plans that do not deny them equal voting power or deny them an equal opportunity to elect candidates of their choice, or otherwise dilute their vote, sort, or discriminate against them on account of race. This is germane to its mission of advancing the social and political rights of Black people and all persons of color by advocating for policies and practices that eliminate discrimination. Central to this mission is fostering civic engagement and ensuring that people of color are represented at all levels of government by legislators who share their interests, values, and beliefs, and who will be accountable to the community. To this end, the

North Carolina NAACP facilitates nonpartisan voter registration drives to promote civic participation and has engaged in redistricting-related advocacy.

Plaintiff Common Cause has, as of the date of this disclosure, identified members who identify as Black or African American in at least the following districts: 2023 Senate Plan districts 1, 3 & 40; 2023 House Plan districts 5, 7, 8, 9, 10, 12, 23, 32, 37 & 71; and 2023 Congressional Plan districts 1 & 5. This includes members who identify as Black or African American and are registered voters in the following counties: Edgecombe County; Forsyth County; Franklin County; Guilford County; Lenoir County; Martin County; Mecklenburg County; Pasquotank County; Pitt County; Vance County; and Wake County. These areas are far from the only areas in which Common Cause has members. As needed to maintain standing, Common Cause will work to identify members living in these and other areas of the state who are registered voters and identify as Black or African-American.

Common Cause seeks to protect the interests of these members to vote under lawful and constitutional voting plans that do not deny them equal voting power or deny them an equal opportunity to elect candidates of their choice, or otherwise dilute their vote, sort, or discriminate them, on account of race. This is germane to its mission around fair elections and encouraging a more representative, open, and responsive government. As part of that mission, Common Cause has educated members and the public about the redistricting process, including how to participate, monitor, and hold decision-makers accountable. Common Cause has researched state redistricting practices to identify best practices for creating a legal, transparent, responsive, and equitable redistricting process. It also assists voters in navigating the elections process, provides resources to help voters determine their districts and polling places, and mobilizes voters to engage in advocacy for government accountability.

Plaintiff Calvin Jones is a Black citizen of the United States and of the State of North Carolina, and a resident of Norlina in Warren County and member of the Warren County NAACP. Mr. Jones's residence is within Senate District 2, House District 27, and Congressional District 1 under both the 2023 Plans and the prior plans used in the 2022 election. Mr. Jones is a registered voter who has regularly voted in the past and intends to vote in the future. Accordingly, the 2023 Senate Plan dilutes Mr. Jones' vote on account of race in intent and effect in violation of Section 2 of the Voting Rights Act and violates his right to be free from intentional under the Fourteenth and Fifteenth Amendments, the 2023 House Plan violates his right to one-person, one-vote under the Fourteenth Amendment and intentionally dilutes his vote on account of race in violation of Section 2 of the Voting Rights Act and violates his right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments, and the 2023 Congressional Map intentionally dilutes his vote on account of race in violation of Section 2 of the Voting Rights Act and violates his right to be free from intentional under the Fourteenth and Fifteenth Amendments.

Plaintiff Corine Mack is a Black citizen of the United States and of the State of North Carolina, and a resident of Charlotte in Mecklenburg County and Branch President of the Mecklenburg NAACP. Ms. Mack's residence is within Senate District 41 in the 2023 Senate Plan and the state senate plan used in the 2022 general election. Ms. Mack is a registered voter who has regularly voted in the past and intends to vote in the future. Accordingly, the 2023 Senate Plan violates her right to one-person, one-vote under the Fourteenth Amendment, dilutes her vote on account of

race in intent in violation of Section 2 of the Voting Rights Act, and violates her right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments.

Plaintiff Dawn Daly-Mack is a Black citizen of the United States and of the State of North Carolina, and a resident of Gaston in Northampton County and Branch President of the Northampton NAACP. Ms. Daly-Mack's residence is within Senate District 1, House District 27, and Congressional District 1 under the 2023 Plans and Senate District 3, House District 27, and Congressional District 1 under the prior plans used in the 2022 election. Ms. Daly-Mack is a registered voter who has regularly voted in the past and intends to vote in the future. Accordingly, the 2023 Senate Plan dilutes Ms. Daly-Mack's vote on account of race in intent and effect in violation of Section 2 of the Voting Rights Act and violates her right to be free from intentional under the Fourteenth and Fifteenth Amendments, the 2023 House Plan violates her right to one-person, one-vote under the Fourteenth Amendment and intentionally dilutes her vote on account of race in violation of Section 2 of the Voting Rights Act and violates her right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments, and the 2023 Congressional Map intentionally dilutes her vote on account of race in violation of Section 2 of the Voting Rights Act and violates her right to be free from intentional under the Fourteenth and Fifteenth Amendments.

Plaintiff Hollis Briggs is a Black citizen of the United States and of the State of North Carolina, and a resident of Wilmington in New Hanover County and a member of the NAACP. Mr. Briggs's residence was within Senate District 7 under the 2022 Senate Plan and is now in State Senate District 8 under the 2023 Senate Plan. Mr. Briggs is a registered voter who has regularly voted in the past and intends to vote in the future. Accordingly, the 2023 Senate Plan violates his right to be free from racial gerrymandering under the Fourteenth Amendment, to one-person, one-vote under the Fourteenth Amendment, intentionally dilutes his vote on account of race in violation of Section 2 of the Voting Rights Act and violates his right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments.

Plaintiff Mitzi Reynolds Turner is a Black citizen of the United States and of the State of North Carolina, and a resident of High Point in Guilford County and member of the NAACP and Common Cause. Ms. Turner's residence is within Congressional District 6 under both the 2023 Congressional Plan and the congressional plan used in the 2022 election (the "2022 Congressional Plan"). Ms. Turner is a registered voter who has regularly voted in the past and intends to vote in the future. Accordingly, the 2023 Congressional Plan intentionally dilutes her vote on account of race in violation of Section 2 of the Voting Rights Act and violates her right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments.

Plaintiff Joan Chavis resided, at the time of the filing of the Complaint, in Wake County as stated therein. *See* Complaint, Paragraph 23. She has, very recently, relocated to Harnett County. Accordingly, NAACP Plaintiffs will seek Defendants' consent to a motion to voluntarily dismiss Ms. Chavis from this case.

Plaintiff Linda Sutton is a Black citizen of the United States and of the State of North Carolina, and a resident of Winston-Salem in Forsyth County and member of the NAACP. Ms. Sutton's residence is within House District 71 under both the 2023 House Plan and the 2022 House Plan. Ms. Sutton is a registered voter who has regularly voted in the past and intends to vote in the

future. Accordingly, the 2023 House Plan violates Ms. Sutton's right to one-person, one-vote under the Fourteenth Amendment, intentionally dilutes her vote on account of race in violation of Section 2 of the Voting Rights Act and violates her right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments, and the 2023 Congressional Plan dilutes her vote on account of race in violation of Section 2 of the Voting Rights Act and violates her right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments.

Plaintiff Syene Jasmin is a Black citizen of the United States and of the State of North Carolina, and a resident of Winterville in Pitt County and member of the NAACP. Mr. Jasmin's residence was located in Congressional District 1 under the 2022 Congressional Plan and is now in Congressional District 3 under the 2023 Congressional Plan. Mr. Jasmin's residence is located within Senate District 5 and House District 9 under both the 2023 Plans and those used in the 2022 election. Mr. Jasmin is a registered voter who has regularly voted in the past and intends to vote in the future. Accordingly, the 2023 Congressional Plan intentionally dilutes his vote on account of race in violation of Section 2 of the Voting Rights Act and violates his right to be free from intentional discrimination under the Fourteenth and Fifteenth Amendments.

As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request upon additional information and investigation.

Interrogatory No. 5

For all Plaintiffs: Identify all persons or entities from whom you have obtained any written or oral statement, report, memorandum, or testimony (including via email or text message) concerning any matter related to the allegations contained in your Complaint from January 1, 2020 through the present.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this request to the extent it seeks information protected by the attorney-client and/or attorney work product privilege, including communications from counsel or those acting under counsel's supervision.

Plaintiffs further object to this Request because it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, and the internal deliberations of the Organizational Plaintiffs and their members, and communications between Individual Plaintiffs and organizations, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information.

Furthermore, the burden and expense of redacting or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter, and Plaintiffs further object to this Request as its timing (January 1, 2020 through present) is overbroad and disproportionate to the needs of the case given it is Legislative Defendants' actions, not Plaintiffs', that have caused the harm alleged in this matter and form the basis of the defenses asserted.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs request that Defendants articulate the relevance of this information to any claim or defense in the instant action. Plaintiffs request to meet and confer with Defendants regarding this Request before they are able to provide a response.

Interrogatory No. 6

For each Individual Plaintiff: Identify every organization (e.g. civic or non-profit), group, church, campaign (including your own campaign for political office, if any), political party, or political committee (including any of the Organizational Plaintiffs in this action) in which you are or were a member or in which you are or were otherwise involved during the last 8 years by stating the following:

- (a) the name of the organization, group, church, campaign, political party, or political committee;
- (b) the date your affiliation with the organization, group, church, campaign, political party, or political committee began and, if applicable, the date your affiliation ended;
- (c) any title, office, or position you hold or have held in the organization, group, church, campaign, political party, or political committee; and
- (d) whether you pay or paid dues, a membership fee, or any other sum of money to be a member or to be affiliated with the organization, group, church, campaign, political party, or political committee.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this Interrogatory on the grounds that the request is compound and contains at least four distinct subparts that are not substantially related to be considered part of a single Interrogatory.

Plaintiffs further object to this request because the terms “member” and “were otherwise involved” is undefined and vague and thus unduly burdensome to the extent that it expands the scope of discovery in a manner that is not proportional to the needs of the case. Whether or not someone is considered a “member” and considers themselves a “member” is dependent on the organization, and without further specification on what Legislative Defendants mean by “member” or “involved” Plaintiffs are unable to answer this interrogatory.

Plaintiffs further object to this Request because it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs’ freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership information, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information.

Furthermore, the chilling effect of disclosing this information would far outweigh any use or relevance it has to the claims and defenses in this matter, and Plaintiffs further object to this Request as its timing (8 years) is overbroad and disproportionate to the needs of the case given it is Legislative Defendants’ actions, not Plaintiffs’, that have caused the harm alleged in this matter and form the basis of the defenses asserted.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs disclose that, as set forth in the Complaint, Plaintiffs Calvin Jones, Hollis Briggs, Linda Sutton, Syene Jasmin, Dawn Daly-Mack, and Corine Mack, are members of local chapters of the North Carolina NAACP, and Plaintiff Mitzi Reynolds Turner is a member of the North Carolina NAACP and Common Cause.

Regarding additional affiliations, Plaintiffs request that Defendants articulate the relevance of this information to any claim or defense in the instant action. Plaintiffs agree to meet and confer with Defendants on what information is sought within the scope of this request.

Interrogatory No. 7

For all Plaintiffs: Except for your attorney, identify each person who participated in the preparation, factual investigation, and/or drafting of your responses to these Interrogatories or who you consulted, relied upon, or otherwise received information from in preparing your answers to these Interrogatories and specify each Interrogatory for which he/she participated in the preparation, factual investigation, and/or drafting of your responses or was consulted, relied upon, or otherwise constituted a source of information.

Objections:

Plaintiffs’ General Objections are incorporated by reference in this response.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond as follows:

NC NAACP: These answers were provided by President Maxwell in consultation with State Conference and NAACP local branch leadership, with the assistance of counsel.

Common Cause: These answers were provided by Bob Phillips in consultation with Common Cause national and Common Cause North Carolina staff, with the assistance of counsel.

The Individual Plaintiffs received assistance from counsel and those acting under the direction of counsel only.

Interrogatory No. 8

Identify all direct evidence supporting your allegations in Paragraphs 128 and 136 of the Complaint that “map-drawers” and others involved in the map-drawing process were “aware of” and “intended” the alleged “disparate impact of new district lines on Black voters.” The term “direct evidence” in this interrogatory holds the meaning of the term “direct evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234 (2024).

Objections:

Plaintiffs’ General Objections are incorporated by reference in this response.

Plaintiffs object to this blockbuster interrogatory because it seeks to require Plaintiffs to present legal conclusions at this stage in the litigation in which discovery is ongoing, and to marshal all their evidence at this stage in the litigation, contrary to what is required under the Federal Rules of Civil Procedure. Plaintiffs will produce the Documents, data, and other evidence support their claims in this lawsuit according to the applicable scheduling order, the Federal Rules of Civil Procedure, and Federal Rules of Evidence.

Plaintiffs further object to this Request because it seeks information accessible to and/or in the possession of Defendants.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond that courts use the factors outlined in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), to determine if the decision-makers acted with illicit intent. Under *Arlington Heights*, “[d]etermining whether invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” 429 U.S. at 266. “The impact of the official action . . . provide[s] an important starting point.” *Id.* (quoting *Washington v. Davis*, 426 U.S. 229, 242 (1976)). From there, courts consider five non-exhaustive factors to determine whether a particular decision was

made with a discriminatory purpose: (1) the historical background of the decision, (2) the specific sequence of events leading up to the decision, (3) departures from the normal procedural sequence, (4) substantive departures, and (5) legislative history. *Arlington Heights*, 429 U.S. at 267–68. Evidence of race-based hatred or outright racism, or that any particular legislator harbored racial animosity or ill-will toward minorities because of their race, is not required. *N.C. NAACP v. McCrory*, 831 F.3d 204, 222 (4th Cir. 2016). Here, the evidence substantiating Defendants’ awareness and intent and supporting these factors is set forth in detail in paragraphs 49 through 132 of the Complaint, including the long history of discriminatory redistricting in North Carolina, evidentiary records of *Covington v. North Carolina*, 316 F.R.D. 117, 168 (M.D.N.C. 2016), *aff’d* 137 S. Ct. 2211 (2017); *Cooper v. Harris*, 581 U.S. 285 (2017), *Common Cause v. Lewis*, No. 18CVS014001, 2019 N.C. Super. LEXIS 56, at *313 (Super. Sept. 3, 2019), *Harper v. Hall*, 380 N.C. 317 (2022) and subsequent remedial legislative record, and the 2023 redistricting process and legislative record. As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request upon additional information and investigation.

Interrogatory No. 9

Excluding expert witness evidence to be sponsored under Federal Rule of Evidence 702, identify all circumstantial evidence supporting your allegations in Paragraphs 128 and 136 of the Complaint that the “map-drawers” and others involved in the map-drawing process were “aware of” and “intended” the alleged “disparate impact of new district lines on Black voters.” The term “circumstantial evidence” in this interrogatory holds the meaning of the term “circumstantial evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234–36 (2024).

Objections:

Please see the objections set forth in response to Interrogatory No. 8, which are incorporated here by reference.

Response:

Please see the responses set forth in response to Interrogatory No. 8, which are incorporated here by reference.

Interrogatory No. 10

Identify all direct evidence supporting your allegations in Paragraphs 265, 280, and 290 of the Complaint that the 2023 Plans were “enacted with the intent to discriminate on the basis of race as a motivating factor” The term “direct evidence” in this interrogatory holds the meaning of the term “direct evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234 (2024).

Objections:

Please see the objections set forth in response to Interrogatory No. 8, which are incorporated here by reference.

Response:

Please see the responses set forth in response to Interrogatory No. 8, which are incorporated here by reference.

Interrogatory No. 11

Excluding expert witness evidence to be sponsored under Federal Rule of Evidence 702, identify all circumstantial evidence supporting your allegations in Paragraphs 265, 280, and 290 of the Complaint that the 2023 Plans were “enacted with the intent to discriminate on the basis of race as a motivating factor” The term “circumstantial evidence” in this interrogatory holds the meaning of the term “circumstantial evidence” in *Alexander v. S.C. State Conf. of the NAACP*, 144 S. Ct. 1221, 1234–36 (2024).

Objections:

Please see the objections set forth in response to Interrogatory No. 8, which are incorporated here by reference.

Response:

Please see the responses set forth in response to Interrogatory No. 8, which are incorporated here by reference.

Interrogatory No. 12

Identify all evidence supporting your allegations of intentional vote dilution against the 2023 Senate Plan, the 2023 House Plan, and Congressional Districts 1, 5, 6, 9, and 10 as set forth in Counts 4, 8, 10, and 11 of the Complaint.

Objections:

Plaintiffs’ General Objections are incorporated by reference in this response.

Plaintiffs object to this blockbuster interrogatory because it seeks to require Plaintiffs to present legal conclusions at this stage in the litigation in which discovery is ongoing, and to marshal all their evidence at this stage in the litigation, contrary to what is required under the Federal Rules of Civil Procedure. Plaintiffs will produce the Documents, data, and other evidence support their claims in this lawsuit according to the applicable scheduling order, the Federal Rules of Civil Procedure, and Federal Rules of Evidence.

Plaintiffs further object to this Request because it seeks information accessible to and/or in the possession of Defendants.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond that courts use the factors outlined in *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), to determine if the decision-makers acted with illicit intent, and courts further consider the Senate Factors when considering claims of intentional vote dilution under Section 2 of the Voting Rights Act. *See United States v. Brown*, 561 F.3d 420, 433 (2009). Under *Arlington Heights*, “[d]etermining whether invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” 429 U.S. at 266. “The impact of the official action . . . provide[s] an important starting point.” *Id.* (quoting *Washington v. Davis*, 426 U.S. 229, 242 (1976)). “The gravamen of an intentional vote-dilution claim is that the [legislature] enacted ‘a particular voting scheme as a purposeful device to minimize or cancel out the voting potential scheme as a purposeful device to minimize or cancel out the voting potential of racial or ethnic minorities.’” *Petteway v. Galveston Cnty.*, 667 F. Supp. 3d 432, 442 (S.D. Tex. 2023) (quoting *Perez v. Abbott*, 253 F. Supp. 3d 864, 932 (W.D. Tex. 2017)). From there, courts consider five non-exhaustive factors to determine whether a particular decision was made with a discriminatory purpose: (1) the historical background of the decision, (2) the specific sequence of events leading up to the decision, (3) departures from the normal procedural sequence, (4) substantive departures, and (5) legislative history. *Arlington Heights*, 429 U.S. at 267–68. Evidence of race-based hatred or outright racism, or that any particular legislator harbored racial animosity or ill-will toward minorities because of their race, is not required. *N.C. NAACP v. McCrory*, 831 F.3d 204, 222 (4th Cir. 2016).

Here, the evidence substantiating Defendants’ awareness and intent and supporting these factors is set forth in detail in paragraphs 49 through 132 of the Complaint, including the long history of discriminatory redistricting in North Carolina, evidentiary records of *Covington v. North Carolina*, 316 F.R.D. 117, 168 (M.D.N.C. 2016), *aff’d* 137 S. Ct. 2211 (2017); *Cooper v. Harris*, 581 U.S. 285 (2017), *Common Cause v. Lewis*, No. 18CVS014001, 2019 N.C. Super. LEXIS 56, at *313 (Super. Sept. 3, 2019), *Harper v. Hall*, 380 N.C. 317 (2022) and subsequent remedial legislative record, and the 2023 redistricting process and legislative record. Furthermore, evidence supporting a Section 2 violation under the totality of the circumstances is set forth in detail in paragraphs 201 through 239 of the Complaint, including the long history of discriminatory voting practices in North Carolina continuing into present day; the presence of racially polarized voting in the Black Belt and Piedmont Triad areas and the use of voting practices and procedures that enhance the opportunity for discrimination against Black voters; the extent to which Black North Carolinians in these areas bear the effects of discrimination in areas of education, employment, and health among others; the use of overt and subtle racial appeals in political campaigns persisting into recent elections; and the diminished extent to which Black minority candidates are elected to public office. As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request upon additional information and investigation.

Interrogatory No. 13

Identify all witnesses you may call at any hearing or trial in this matter to present evidence supporting your allegations regarding the General Assembly's intent in drawing the 2023 Plans.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this blockbuster interrogatory because it seeks to require Plaintiffs to disclose "all" witnesses at this stage in the litigation in which discovery is ongoing, and to marshal all their evidence at this stage in the litigation, contrary to what is required under the Federal Rules of Civil Procedure. Plaintiffs will disclose witnesses according to the applicable scheduling order, the Federal Rules of Civil Procedure, and Federal Rules of Evidence.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs refer Defendants to the individuals disclosed in their Initial Disclosures, as well as those of the Williams Plaintiffs, Legislative Defendants, and the State Defendants. As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request and their Initial Disclosures upon additional information and investigation.

Interrogatory No. 14

Identify the basis for alleging that racial considerations drove the General Assembly to draw Senate District 39, Senate District 42, House District 21, House District 34, House District 37, House District 41, House District 66, and House District 75 above the ideal population.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this interrogatory because it seeks to require Plaintiffs to regurgitate portions of their Complaint or to present legal conclusions at this stage in the litigation in which discovery is ongoing. The allegations of the Complaint speak for themselves.

Plaintiffs object to this interrogatory to the extent that it misconstrues Plaintiffs' malapportionment claims as racial gerrymandering claims, which have distinct constitutional injuries and are governed by distinct legal standards.

Plaintiffs further object to this Request because it seeks information accessible to and/or in the possession of Defendants.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond as follows:

As set forth in paragraphs 154 through 163 of the Complaint, Senate District 42 was systematically and unjustifiably underpopulated compared to the rest of the Mecklenburg Senate districts (Senate Districts 38, 39, 40, 41, 42), which all have significantly higher BVAP levels, causing a dilution of the voting power for voters within higher-BVAP districts. As set forth in paragraphs 253 through 259, this malapportionment violates the Fourteenth Amendment's Equal Protection Clause because the deviations are arbitrary and discriminatory, and cannot be justified by adherence to any legitimate, consistently-applied state interest in redistricting.

As set forth in paragraphs 174 through 181 of the Complaint, House District 35 was systematically and unjustifiably underpopulated compared to the rest of the Wake grouping districts (House Districts 11, 21, 33, 34, 36, 37, 38, 39, 40, 41, 49, 66). House District 35 is disproportionately white compared to the county as a whole, and gives those voters more voting power than voters in the rest of the county, diluting the voting power of voters in higher-BVAP districts. As set forth in paragraphs 272 through 274, this malapportionment violates the Fourteenth Amendment's Equal Protection Clause because the deviations are arbitrary and discriminatory, and cannot be justified by adherence to any legitimate, consistently-applied state interest in redistricting.

As set forth in paragraphs 182 through 188 of the Complaint, House Districts 71 and 72 are systematically and unjustifiably overpopulated compared to the rest of the Forsyth-Stokes grouping districts (House Districts 74, 75, and 91). House Districts 71 and 72 both have significantly BVAP levels than House Districts 74, 75, and 91, which results in a dilution of the voting power for the higher-BVAP districts. As set forth in paragraphs 272 through 274, this malapportionment violates the Fourteenth Amendment's Equal Protection Clause because the deviations are arbitrary and discriminatory, and cannot be justified by adherence to any legitimate, consistently-applied state interest in redistricting.

As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request and their Initial Disclosures upon additional information and investigation.

Interrogatory No. 15

Identify what percentages of BVAP you consider to be a "High BVAP district[]" and to be a "Low BVAP district[]" as used Table 3 of Paragraph 185 of your Complaint.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this interrogatory because it seeks to require Plaintiffs to regurgitate portions of their Complaint or to present legal conclusions at this stage in the litigation in which discovery is ongoing. The allegations of the Complaint speak for themselves.

Plaintiffs further object to this Interrogatory to the extent it seeks to compel the disclosure of expert materials before the August 1, 2024, expert disclosure deadline or before any remedial stage of this litigation.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond that the difference in BVAP between districts as set forth in Table 3 of paragraph 185 is mathematically self-evident: the BVAP levels of House Districts 71 (32.41%) and 72 (40.12%) have BVAP levels that are 1.7x or more than those in House Districts 74 (10.18%), 75 (18.89%), and 91 (16.07%).

As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request and their Initial Disclosures upon additional information and investigation.

Interrogatory No. 16

Identify the basis for your alleged injury in House Districts 33, 38, 39, and 72 under the malapportionment doctrine under the Fourteenth Amendment, as alleged in Paragraphs 174-188 & 273 of the Complaint.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this interrogatory because it seeks to require Plaintiffs to regurgitate portions of their Complaint or to present legal conclusions at this stage in the litigation in which discovery is ongoing. The allegations of the Complaint speak for themselves.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs respond that paragraph 273 of the Complaint has a typographical error listing "House Districts 27 through 34, and House Districts 71, 72, 74, 75, and 91," as the subject of Plaintiffs' malapportionment challenge in Count 7; this is incorrect, and should have instead mirrored those districts identified in the body of the Complaint at Paragraphs 174 through 188 instead, i.e., House Districts in Wake County (11, 21, 33, 34, 35, 36, 37, 38, 39, 40, 41, 49, and 66) and in Forsyth/Stokes Counties (71, 72, 74, 75, and 91).

Plaintiffs further incorporate the response to Interrogatory No. 14 in response to this Request.

As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request and their Initial Disclosures upon additional information and investigation.

Interrogatory No. 17

Identify the basis for your alleged injury in House Districts 27, 28, 29, 30, 31, and 32 under the malapportionment doctrine under the Fourteenth Amendment, as alleged in Paragraph 273 of the Complaint.

Objections

Please see the objections set forth in response to Interrogatory No. 16, which are incorporated here by reference.

Response:

Please see the responses set forth in response to Interrogatory No. 16, which are incorporated here by reference.

REQUESTS FOR PRODUCTION

Reservation of Rights

Plaintiffs are responding to Defendants' First Set of Requests for Production ("Requests") based on the information currently available to them. Discovery, however, is not yet complete. Additional discovery and investigation may lead to additions to, changes in, or modification of these responses. Plaintiffs therefore reserve their right to supplement, amend, revise, correct, modify, or clarify these responses as additional information becomes available.

Plaintiffs make their objections and responses in accordance with their interpretation and understanding of these Requests and in accordance with their current knowledge, understanding, and belief as to the facts and information available to them at the time of serving these responses. If Defendants subsequently provide an interpretation of any of their Requests that differs from Plaintiffs' understanding of the same, Plaintiffs reserve their right to complete the discovery of facts in this case and rely at trial or in any other proceeding on documents and information in addition to the information provided herein, regardless of whether such information is newly discovered or newly in existence. They also reserve the right to amend, revise, correct, modify, or clarify their responses to properly respond to any interpretation Defendants may give these Requests.

Plaintiffs reserve their right to object on any grounds, at any time, to the admission or use of any response on any ground. Plaintiffs are also willing to meet and confer about any of their objections or responses.

General Objections

Plaintiffs, by and through their undersigned counsel and pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, provide the following Objections and Responses to Legislative Defendants' First Set of Requests for Production ("RFPs").

1. Plaintiffs object to the RFPs to the extent that they purport to impose obligations beyond or otherwise inconsistent with, the Federal Rules of Civil Procedure, the Local Rules of this Court, or any applicable laws, rules, or governing orders.

2. Plaintiffs object to the RFPs to the extent that they seek information not relevant to any party's claim or defense, are not reasonably calculated to lead to the discovery of admissible evidence, and/or are not proportional to the needs of the case.

3. Plaintiffs object to the RFPs to the extent that they seek information protected by the attorney-client privilege, the work product doctrine, the joint defense or common interest privilege, any other applicable privilege or immunity, or any protective order, or that is otherwise exempted from discovery, or prohibited from disclosure by law, rules, or protective orders. Plaintiffs hereby assert all applicable privileges and protections to the extent implicated by the RFPs. Any disclosure of such privileged and/or protected information is inadvertent and is not intended to waive those privileges or protections. Plaintiffs reserve the right to request the return or destruction of any documents that contain any inadvertent disclosures of privileged or protected information.

4. Plaintiffs object to the RFPs to the extent that they seek disclosure of Plaintiffs' confidential information. Any such information will be disclosed only subject to a negotiated Protective Order. Plaintiffs further object to the RFPs to the extent that they seek documents or

information subject to a confidentiality obligation owed to a non-party to this case, until such time that the non-party agrees to production or an appropriate court order is entered.

5. Plaintiffs object to the RFPs as overbroad and unduly burdensome to the extent they are not limited to a specific time period or the scope of the case.

6. Plaintiffs object to the RFPs to the extent that they purport to impose an obligation on Plaintiffs to locate, obtain, and produce information, documents, and things that are not in Plaintiffs' possession, custody, or control.

7. Plaintiffs object to the RFPs to the extent they require Plaintiffs to produce information, documents, and/or things that do not already exist and/or call for information in a format other than that in which it is ordinarily kept by Plaintiffs.

8. Plaintiffs object to the RFPs to the extent they seek information available from public sources.

9. Plaintiffs object to these RFPs to the extent they seek information protected from disclosure under the First Amendment because such disclosure would intrude on or chill Plaintiffs' First Amendment rights, including the right to associate and to engage in the exchange of ideas, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958); *Whole Woman's Health v. Smith*, 896 F.3d 362 (5th Cir. 2018), as revised (July 17, 2018); *Perry v. Schwarzenegger*, 591 F.3d 1147 (9th Cir. 2010).

10. Plaintiffs object to the RFPs as premature to the extent they seek discovery in advance of the applicable schedule set by the Court, including the parties' stipulated-to schedule for expert discovery.

11. Plaintiffs object to the RFPs to the extent they seek information beyond what is available from a reasonable search of Plaintiffs' files likely to contain relevant or responsive

documents or information and from a reasonable inquiry of individuals likely to have information relevant to a claim or defense of any party or to the subject matter of this case.

12. Plaintiffs object to the RFPs on the grounds and to the extent that they are overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Plaintiffs further object to the RFPs on the ground and to the extent that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account, for example, the needs of the case, the parties' resources, and the importance of the proposed discovery in resolving the issues at stake in the litigation. Plaintiffs further object to the RFPs to the extent they are cumulative of other discovery in this case; seek documents already in the possession, custody, or control of, or otherwise equally available to, the Defendants; or seek discovery more readily available through less burdensome means.

13. Plaintiffs object to RFPs based on "all" or "any" documents, communications, or data "relating to" a particular topic, because identifying and collecting all documents containing any reference or relationship to a particular topic is unduly burdensome and disproportionate to the needs of the case. Where indicated in their specific responses and objections, Plaintiffs will conduct reasonable and diligent searches by making reasonable inquiries of custodians reasonably likely to possess responsive documents and conducting reasonable and good faith searches of those custodial files to the extent proportional to the case, and respond to the RFPs accordingly. Plaintiffs cannot guarantee that they will identify or produce "all documents."

14. By responding to these RFPs, Plaintiffs do not waive any objections to the admission of these responses into evidence on the grounds of competence, relevance, materiality, or on any other proper grounds for objection at trial.

15. No admission of any nature whatsoever is to be implied by or inferred from the Responses below. Any response or objection to a RFP should not be taken as (a) an agreement with, acceptance or admission of the existence of any documents or alleged facts set forth or assumed by such RFP; (b) an agreement that RFPs for similar information or documents will be treated in a similar manner; or (c) an acceptance of, or agreement with, any of the definitions in the RFPs, to the extent that the definition or meaning of any defined term is at issue in this litigation. A response that Plaintiffs will produce responsive documents is not an admission that any such documents exist, only that Plaintiffs will conduct a reasonable search for such documents. A response to part or all of any RFP is not intended to be, and shall not be construed as, a waiver of any part of any objection to the RFP.

16. The above General Objections apply to each of the RFPs and are hereby incorporated into each of Plaintiffs' Specific Responses and Objections set forth below. Plaintiffs' Specific Responses and Objections may repeat or restate a General Objection for emphasis or some other reason; however, the failure to repeat or restate a General Objection in Plaintiffs' Specific Responses and Objections shall not constitute a waiver of any General Objection.

17. Plaintiffs' Responses and Objections are made to the best of their present knowledge, information and belief. Discovery in this case is ongoing. Plaintiffs reserve the right at any time to revise, correct, clarify, supplement, and/or amend the Objections or Responses set forth herein and the production made pursuant thereto, as and when Plaintiffs ascertain new, better, additional or different information; and/or complete additional analysis relating to the claims and/or defenses in this litigation.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. Plaintiffs object to each definition and instruction to the extent that it seeks information beyond that permitted by the Federal Rules of Civil Procedure or the Local Rules.
2. Plaintiffs object to the terms “you,” and “your” to the extent that the terms seek information outside of Plaintiffs’ possession, custody, or control.
3. Plaintiffs object to the definitions of “documents,” “communications,” and “social media” to the extent that they purport to include forms of information not discoverable under the Federal Rules, Local Rules, or any other applicable authority. Plaintiffs further object to the definitions to the extent that they define a category of documents in an overbroad manner and/or request a production of documents which would be unduly burdensome or disproportionate to the needs of the litigation.
4. Plaintiffs object to Instruction Nos. 2 and 3 to the extent that they purport to seek information outside Plaintiffs’ possession, custody, or control. Plaintiffs further object to these instructions to the extent that they purport to seek information beyond what is available from a reasonable search.

Request for Production No. 1

To all Plaintiffs: Produce all documents identified in your answers to the above Interrogatories.

Objections:

Plaintiffs’ General Objections are incorporated by reference in this response.

Plaintiffs also incorporate by reference their Objections to the Defendants’ First Set of Interrogatories to NAACP Plaintiffs and will withhold any responsive documents consistent with those objections.

Plaintiffs further object to this Request to the extent it seeks documents shielded from discovery by the attorney-client privilege, the work-product doctrine, or the common interest privilege. Plaintiffs intend to withhold any responsive materials identified as part of their reasonable search

that are subject to the aforementioned privileges. Documents withheld will be disclosed to Defendants in privilege logs accompanying Plaintiffs' rolling productions.

Plaintiffs further object to this Request as it requests information equally available to Defendants, including the public records specified in response to Interrogatory No. 8.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs assert that they have reviewed the Complaint and Initial Disclosures, the Williams Plaintiffs' Initial Disclosures, and the State Defendants Initial Disclosures, all of which have already been served upon Defendants, in preparing answers to Defendants' First Set of Interrogatories.

As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request upon additional information and investigation.

Request for Production No. 2

To all Plaintiffs: Any non-privileged communications or documents created, received, or maintained by you that relate to the political performance of the 2023 Plans, any alternative maps, or any individual districts, in any form including, but not limited to, any and all estimates, reports, studies, analyses, notes, text messages, journals, diaries or other writings, videotapes, recordings or other electronically stored media.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this RFP to the extent that it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, and the internal deliberations of the Organizational Plaintiffs and their members, would chill protected First Amendment speech and activities. The disclosure of this information is further unwarranted given that this RFP is beyond the reasonable scope of discovery under Rule 26(b)(1) of the Federal Rules of Procedure and disproportionate and unduly burdensome, and Plaintiffs object on that basis as well. This is especially true given the lack of a temporal limitation and the lack of relevance of the requested information to the claims and defenses asserted in this matter, which concern the actions and intent of the North Carolina General Assembly, not Plaintiffs. *See* Fed. R. Civ. P. 26(b)(1) ("The scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case . . . and whether the burden or expense of the proposed discovery outweighs its likely benefit."). As such, the work of redacting or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter.

Plaintiffs intend to withhold any responsive materials identified as part of their reasonable search that are subject to the privileges and/or First Amendment protection. Documents withheld pursuant to the aforementioned privileges and/or First Amendment protection will be disclosed to Defendants in privilege logs accompanying Plaintiffs' rolling productions.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs will produce responsive non-privileged communications identified following a reasonable search of public, non-privileged communications within the time period January 1, 2023, to December 19, 2023.

Request for Production No. 3

To all Plaintiffs: Any alternative maps created, received, or maintained by you related to North Carolina's 2023 redistricting process, and all documents or other electronically stored media relating to or otherwise supporting the creation of any alternative maps.

Objections:

Plaintiffs incorporate by reference their Objections to Legislative Defendants Request for Interrogatory No. 2.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs confirm that no Plaintiff has created or drawn any alternative map to the 2023 Plans.

Request for Production No. 4

To Organizational Plaintiffs: Excluding those documents protected by the attorney-client privilege, all documents reflecting or referring to any alleged "harm" or "injury" you claim to have suffered as a result of the 2023 Plans, including but not limited to financial records, communications, emails, notes, text messages, or recordings.

To Individual Plaintiffs: Excluding those documents protected by the attorney-client privilege, all documents reflecting or referring to any conversation or communication you had with any third party about any alleged "harm" or "injury" you claim to have suffered as a result of the 2023 Plans, including but not limited to, emails, notes, text messages, or recordings of any such conversations or communications.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this RFP because it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, financial information, and the internal deliberations of the Organizational Plaintiffs and their members, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information. Furthermore, the burden and expense of redacting or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter.

Plaintiffs further object to this RFP because its request for "all documents" without any temporal limit is beyond the scope of permissible discovery and unduly burdensome. Organizational Plaintiffs assert only representational standing in this matter as representatives of their members, which does not require a showing of "harm" *per se* but rather demonstration that (a) an organization's members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose, and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Washington State Apple Advertising Comm'n*, 432 U.S. 333, 343 (1977). Similarly, the Individual Plaintiffs' basis for standing and the alleged harm is otherwise substantiated by their residence, voter registration status, and racial identity, and thus this request for "all documents reflecting or referring to any conversation or communication you had with any third party about any alleged 'harm' or 'injury'" without any temporal limit is not proportionate to the needs of this case in light of the claims and defenses asserted.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs will produce responsive, non-privileged communications identified following a reasonable search of public, non-privileged communications within the time period of January 1, 2023, to December 19, 2023.

Request for Production No. 5

To all Plaintiffs: Copies of all posts, statuses, or direct messages made by you on any Social Media platform or other website that relate to or reflect any of the allegations or claims you have made in this lawsuit, or otherwise related to redistricting since January 1, 2020.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this RFP to the extent it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g.,*

NAACP v. Alabama, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, financial information, and the internal deliberations of the Organizational Plaintiffs and their members, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information. Furthermore, the burden and expense of redacting or screening for this information, especially given the overbroad time period spanning back to January 1, 2020 (which Plaintiffs also object to), would far outweigh any use or relevance it has to the claims and defenses in this matter.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs will produce responsive, non-privileged social media postings discussing the redistricting of North Carolina's statewide plans identified following a reasonable search of social media postings within the time period of January 1, 2023, to December 19, 2023.

Request for Production No. 6

To all Plaintiffs: Copies of all documents referenced in your Rule 26(a)(1) Initial disclosures.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this Request because it seeks to compel the disclosure of expert materials that, pursuant to the applicable scheduling order, are not required to be disclosed until on or after August 1, 2024.

Plaintiffs further object to this Request as it requests materials that are not in the custody or control of Plaintiffs and/or materials that are publicly accessible to or otherwise in the possession of Defendants, including publicly available election results and data and other documents created during the 2023 redistricting process.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs will produce all expert materials on the timeline required for disclosure pursuant to the applicable scheduling order and by agreement of the Parties.

Plaintiffs also respond by referring Defendants to the following sources for the public information listed in Plaintiffs' Initial Disclosures, and request to meet and confer with Defendants on the extent to which production and Bates stamping of this information is a necessary expense for these publicly-available materials to be admissible at trial:

- North Carolina voting data maintained by the North Carolina State Board of Elections available at <https://dl.ncsbe.gov/>.
- United States Census data for North Carolina available at <https://www.census.gov/en.html>.
- Internet websites created or maintained by the North Carolina General Assembly, its members and staff available at <https://www.ncleg.gov>
- Records relating to redistricting in North Carolina maintained by the North Carolina General Assembly, its members and staff available at <https://www.ncleg.gov/redistricting>

As discovery is ongoing, and subject to and without waiving any of their Specific and General Objections, Plaintiffs reserve the right to supplement the response to this Request upon additional information and investigation.

Request for Production No. 7

To all Plaintiffs: Copies of any source code, software parameters, or other backup data used or produced by any of your experts in connection with this litigation. This includes, but is not limited to, any EI codes, comparisons, data disaggregation, data reaggregations, algorithms, algorithm parameters, or any vignettes or other instructions relied upon to manipulate or instruct electronic programs/applications used by any of your experts in connection with this litigation. To the extent such items were not developed by your expert but are otherwise available, please identify the code, software, programs, or applications and the name(s) and contact information of the person or entity that created the code, software, programs, or applications.

Objections:

Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this Request because it seeks to compel the disclosure of expert materials that, pursuant to the applicable scheduling order, are not required to be disclosed until on or after August 1, 2024.

Plaintiffs further object to this request as it seeks the disclosure of expert materials beyond what is required under Rule 26(a)(2) of the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

Response:

Subject to and without waiving any of their Specific and General Objections, Plaintiffs will produce all expert materials on the timeline required for disclosure pursuant to the applicable scheduling order and by agreement of the Parties.

Plaintiffs also agree to meet and confer following the disclosure of expert materials on the scope of information requested in this RFP.

Dated: July 11, 2024.

HOGAN LOVELLS US LLP

J. Tom Boer*
Corey Leggett*
Olivia Molodanof*
Madeleine Bech*
4 Embarcadero Center, Suite 3500
San Francisco, CA 94111
Telephone: 415-374-2300
Facsimile: 415-374-2499
tom.boer@hoganlovells.com
corey.leggett@hoganlovells.com
olivia.molodanof@hoganlovells.com
madeleine.bech@hoganlovells.com

Jessica L. Ellsworth*
Misty Howell*
Odunayo Durojaye*
555 Thirteenth Street, NW
Washington, DC 20004
Telephone: 202-637-5600
Facsimile: 202-637-5910
jessica.ellsworth@hoganlovells.com
misty.howell@hoganlovells.com
odunayo.durojaye@hoganlovells.com

Harmony Gbe*
1999 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Telephone: 310-785-4600
Facsimile: 310-785-4601
harmony.gbe@hoganlovells.com

*Appearing in this matter by Special
Appearance pursuant to L-R 83.1(d)

**SOUTHERN COALITION FOR
SOCIAL JUSTICE**

/s/ Hilary Harris Klein
Jeffrey Loperfido (State Bar #52939)
Hilary Harris Klein (State Bar #53711)
Christopher Shenton (State Bar #60442)
Mitchell D. Brown (State Bar #56122)
5517 Durham Chapel Hill Blvd.
Durham, NC 27707
Telephone: 919-794-4213
Facsimile: 919-908-1525
hilaryhklein@scsj.org
jeffloperfido@scsj.org
chrissshenton@scsj.org
mitchellbrown@scsj.org

NAACP

Janette Louard*
4805 Mt. Hope Drive
Baltimore, MD 21215
Tel: (410) 580-5777
jlouard@naacpnet.org

EXHIBIT C

Legislative Defendants'
September 5, 2024 Discovery Letter

September 5, 2024

Via E-mail

To: Hilary Harris Klein
Southern Coalition for Social Justice
PO Box 51280
Durham, NC 27717
hilaryhklein@scsj.org

Abha Khanna
Elias Law Group LLP
1700 Seventh Ave., Suite 2100
Seattle, WA 98101
AKhanna@elias.law

RE: Plaintiffs' Responses to Legislative Defendants' First Sets of Discovery – *Williams v. Hall*, M.D.N.C. No. 23-CV-1057 (lead) and *NC NAACP v. Berger*, No. 23-CV-v1104 (consolidated)

Hilary and Abha,

We have reviewed *NAACP* Plaintiffs' and *Williams* Plaintiffs' written responses to Legislative Defendants' First Set of Interrogatories and Requests for Production of Documents. We believe that both sets of responses do not fully respond to Legislative Defendants' requests. As the issues across both sets of responses are similar, we have consolidated this letter to address both responses. To the extent a discussion of an issue is limited to a specific set of plaintiffs, we have noted the same.

As a preliminary matter, in order to allow time to resolve these disputes and take depositions after written discovery and document productions are complete, we ask that you please provide the date by which both sets of plaintiffs will complete their document production. This will allow us to fully assess the adequacy of your responses and production in advance of depositions.

We outline specific concerns with Plaintiffs' written responses in greater detail below.¹

¹ This letter is meant to illustrate only certain preliminary concerns with Plaintiffs' responses. It is not meant to be an exhaustive list of each and every deficiency therein. Failure to include a specific deficiency in this

I. Failure to Adequately Respond to Certain Interrogatories

Plaintiffs' responses to certain interrogatories are particularly deficient. Full answers to these interrogatories are critical for Legislative Defendants to adequately assess Plaintiffs' claims in this matter.

Notably, several of your responses cite to the First Amendment along with cases such as *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958), *NAACP v. Button*, 371 U.S. 415 (1963), and *Black Panther Party v. Smith*, 661 F.2d 1243 (D.C. Cir. 1981). None of these citations provide a valid basis to withhold the information requested. To the extent you have not provided any information based on these objections—including but not limited to the specific interrogatories identified below—this is improper and we request that you supplement your responses appropriately as requested below.

a. Organizational Plaintiffs cannot use the First Amendment privilege as both a sword and a shield.

Legislative Defendants requested that Organizational Plaintiffs identify the members whose standing they will assert for each of the challenged districts so that discovery may be taken into that subject matter. *See* Interrogatory No. 4. This request clearly passes the low relevance threshold for discovery. Organizational Plaintiffs state that they will assert representational standing, which requires that they “name the individuals” whose standing they assert, *Summers v. Earth Island Inst.*, 555 U.S. 488, 498 (2009), and prove the elements of standing for each, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199 (2023); *see also S. Walk at Broadlands Homeowner's Ass'n, Inc. v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 183-186 (4th Cir. 2013).

In spite of this, Legislative Defendants understand that Organizational Plaintiffs refuse to respond to Interrogatory No. 4. They also understand that the sole basis for the refusal is an assertion of First Amendment privilege. As an initial matter, Organizational Plaintiffs have not made the threshold showing necessary to support the privilege assertion. *See Buckley v. Valeo*, 424 U.S. 1, 71 (1976) (describing the “record evidence” necessary to this privilege).

More importantly, an assertion of privilege operates to bar the party asserting privilege from introducing evidence within the subject matter of the privilege assertion. *See In re Edmond*, 934 F.2d 1304, 1308 (4th Cir. 1991) (discussing the sword-and-shield doctrine). Accordingly, if Organizational Plaintiffs refuse to respond to Interrogatory No. 4 on privilege grounds, they will be prohibited from introducing evidence in this case, including at the summary-judgment or trial stages, concerning the subject matter of members whose standing Organizational Plaintiffs will

letter is not intended to be a waiver of the issue by Legislative Defendants, nor should it be treated as such. Legislative Defendants specifically reserve the right to raise such deficiencies at a later date, as applicable. All specific rights and remedies are specifically reserved.

assert. Needless to say, it would be highly prejudicial for Organizational Plaintiffs to refuse discovery on this subject and later introduce evidence concerning it.

Legislative Defendants are already prejudiced by Organizational Plaintiffs' failure to respond to Interrogatory No. 4—without names, Legislative Defendants have no way of verifying anything about Organizational Plaintiffs' members whose standing they assert, including whether they are registered to vote or actually reside in the challenged districts.

In the interest of resolving this matter without court intervention, Legislative Defendants propose that Organizational Plaintiffs confirm in writing that they will not seek to introduce any evidence concerning the subject matter of members whose standing Organizational Plaintiffs will assert at any time in this case. If that occurs, Legislative Defendants—despite their doubts that a First Amendment privilege is supportable here—will not seek to compel discovery into that subject matter. Please let us know if Organizational Plaintiffs will agree to this resolution or, if not, their good-faith basis for believing privilege can be used as both sword and shield.

b. The First Amendment does not shield Individual Plaintiffs from disclosing requested correspondence and affiliations.

Individual Plaintiffs in both *Williams* and *NAACP* refused to identify certain organizational affiliations or produce requested correspondence. While Plaintiffs cite to various First Amendment principles and cases, neither are applicable, nor do they support Individual Plaintiffs withholding the requested information. Not only is the information sought highly relevant to the claims and defenses in this matter, but much of what is sought—if not all—has been publicly disclosed to third parties. Individual Plaintiffs have therefore waived any objections they otherwise might have had over this information.

Regarding individual organizational affiliations, *Alexander v. S.C. State Conference of the NAACP*, 144 S. Ct. 1221 (2024), made it clear that politics is a defense to claims like those here. Thus, Individual Plaintiffs' other affiliations are highly relevant. Similarly, understanding each Individual Plaintiff's civic engagement (or lack thereof) speaks directly to any harm allegedly suffered. *Williams* Plaintiffs' quotation from *Black Panther Party v. Smith*, 661 F.2d 1243 (D.C. Cir. 1981) proves our point: politics is one of the operative questions at issue in this case. Thus, the information sought (i.e. political and community affiliations) is crucial here. It is also worth noting that some, if not all of this information, is publicly disclosed through various reporting mechanisms and platforms, further mooted any concerns regarding purported negative impacts on speech. Moreover, to the extent Plaintiffs have identified their memberships or affiliations to third parties in a public way (including but not limited to, in social media posts, or participating in public meetings, rallies, or fundraisers), Plaintiffs have waived this privilege. Finally, the protective order and its confidentiality provisions entered in this case further alleviate any concerns of adverse effects on speech. [Dkt. no. 55].

c. Other specific interrogatory responses are deficient.

With the foregoing considerations in mind, please review each of your responses and supplement as necessary. The following specific interrogatory responses are deficient.²

INTERROGATORY NO. 5 to NAACP Plaintiffs

For all Plaintiffs: Identify all persons or entities from whom you have obtained any written or oral statement, report, memorandum, or testimony (including via email or text message) concerning any matter related to the allegations contained in your Complaint from January 1, 2020 through the present.

NAACP Plaintiffs' Objections:

"Plaintiffs object to this request to the extent it seeks information protected by the attorney-client and/or attorney work product privilege, including communications from counsel or those acting under counsel's supervision.

Plaintiffs further object to this Request because it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, and the internal deliberations of the Organizational Plaintiffs and their members, and communications between Individual Plaintiffs and organizations, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information.

Furthermore, the burden and expense of redacting or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter, and Plaintiffs further object to this Request as its timing (January 1, 2020 through present) is overbroad and disproportionate to the needs of the case given it is Legislative Defendants' actions, not Plaintiffs', that have caused the harm alleged in this matter and form the basis of the defenses asserted."

Legislative Defendants' Response:

Again, your arguments regarding the First Amendment and your citation to *NAACP v. Alabama ex rel. Patterson* are misplaced. Withholding otherwise discoverable information on this

² With regard to *Williams* Plaintiffs, the specific responses used in this letter are from Shauna Williams' responses to Legislative Defendants' discovery requests. However, the noted deficiencies are representative of all individual *Williams* Plaintiffs' responses.

basis is unjustifiable. This interrogatory is narrowly tailored and seeks information that is probative of both *NAACP* Plaintiffs' specific alleged injuries and Organizational Plaintiffs' standing. The protective order in effect for this case further militates against the concerns your response raises. Again, unlike the cited case, Legislative Defendants do not seek entire membership lists. Please supplement your response to this interrogatory with the requested information.

INTERROGATORY NO. 6 to both *NAACP* and *Williams* Plaintiffs

For each Individual Plaintiff: Identify every organization (e.g. civic or non-profit), group, church, campaign (including your own campaign for political office, if any), political party, or political committee (including any of the Organizational Plaintiffs in this action) in which you are or were a member or in which you are or were otherwise involved during the last 8 years by stating the following:

- (a) the name of the organization, group, church, campaign, political party, or political committee;
- (b) the date your affiliation with the organization, group, church, campaign, political party, or political committee began and, if applicable, the date your affiliation ended;
- (c) any title, office, or position you hold or have held in the organization, group, church, campaign, political party, or political committee; and
- (d) whether you pay or paid dues, a membership fee, or any other sum of money to be a member or to be affiliated with the organization, group, church, campaign, political party, or political committee.

***NAACP* Plaintiffs' Objections:**

"Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this Interrogatory on the grounds that the request is compound and contains at least four distinct subparts that are not substantially related to be considered part of a single Interrogatory.

Plaintiffs further object to this request because the terms "member" and "were otherwise involved" is undefined and vague and thus unduly burdensome to the extent that it expands the scope of discovery in a manner that is not proportional to the needs of the case. Whether or not someone is considered a "member" and considers themselves a "member" is dependent on the organization, and without further specification on what Legislative Defendants mean by "member" or "involved" Plaintiffs are unable to answer this interrogatory.

Plaintiffs further object to this Request because it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership information, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information.

Furthermore, the chilling effect of disclosing this information would far outweigh any use or relevance it has to the claims and defenses in this matter, and Plaintiffs further object to this Request as its timing (8 years) is overbroad and disproportionate to the needs of the case given it is Legislative Defendants' actions, not Plaintiffs', that have caused the harm alleged in this matter and form the basis of the defenses asserted."

Williams Plaintiffs' Objections:

"Ms. Williams objects to this interrogatory because it seeks information that is neither relevant to her claims nor proportional to the needs of the case. Ms. Williams also objects to this interrogatory because it seeks information about her civic and political affiliations that is protected by the First Amendment privilege, *see NAACP v. Button*, 371 U.S. 415, 431 (1963) ("[W]e have refused to countenance compelled disclosure of a person's political associations."), and is not relevant—let alone crucial—to this case, *see Black Panther Party v. Smith*, 661 F.2d 1243, 1268 (D.C. Cir. 1981), *cert. granted and vacated as moot* 458 U.S. 1118 ("The interest in disclosure will be relatively weak unless the information goes to 'the heart of the matter,' that is, unless it is crucial to the party's case.").

Legislative Defendants' Response:

Legislative Defendants direct Plaintiffs to the points above regarding Plaintiffs' First Amendment argument and case citation. Similarly, *NAACP* Plaintiffs' request that Legislative Defendants articulate the relevance of each Individual Plaintiff's additional affiliations is seemingly an improper attempt to simultaneously resist discovery and shift your burden. *See, e.g. Kinetic Concepts, Inc. v. ConvaTec Inc.*, 268 F.R.D. 226 (M.D.N.C. 2010) ("Over the course of more than four decades, district judges and magistrate judges in the Fourth Circuit (including members of this Court) have repeatedly ruled that the party or person resisting discovery, not the party moving to compel discovery, bears the burden of persuasion."). Moreover, to the extent Plaintiffs have identified their memberships or affiliations to third parties in a public way (including but not limited to, in social media posts, or participating in public meetings, rallies, or fundraisers), Plaintiffs have waived this privilege.

Individual Plaintiffs' political, civic, and other affiliations are highly relevant to their claims here. *See Alexander v. S.C. State Conference of the NAACP*, 144 S. Ct. 1221 (2024).

Understanding each Individual Plaintiff's civic engagement (or lack thereof) also speaks directly to any harm allegedly suffered.

This request is specifically tailored to discovery into, among other things, each Individual Plaintiffs' claimed harm. Similarly, the request is targeted at assisting Legislative Defendants in preparing their defenses. Your refusal to identify information beyond political party affiliation is not justified. As such, please supplement your responses to this interrogatory.

II. Failure to Adequately Respond to Certain Requests for Production

As stated above, Legislative Defendants request an update regarding the timing of your document production. Without these documents, we cannot fully evaluate the adequacy of your responses. However, certain responses are facially deficient. We address those responses below and ask that they be considered and implemented into any forthcoming productions.

REQUEST FOR PRODUCTION NO. 2 to NAACP Plaintiffs

To all Plaintiffs: Any non-privileged communications or documents created, received, or maintained by you that relate to the political performance of the 2023 Plans, any alternative maps, or any individual districts, in any form including, but not limited to, any and all estimates, reports, studies, analyses, notes, text messages, journals, diaries or other writings, videotapes, recordings or other electronically stored media.

NAACP Plaintiffs' Objections:

"Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this RFP to the extent that it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, and the internal deliberations of the Organizational Plaintiffs and their members, would chill protected First Amendment speech and activities. The disclosure of this information is further unwarranted given that this RFP is beyond the reasonable scope of discovery under Rule 26(b)(1) of the Federal Rules of Procedure and disproportionate and unduly burdensome, and Plaintiffs object on that basis as well. This is especially true given the lack of a temporal limitation and the lack of relevance of the requested information to the claims and defenses asserted in this matter, which concern the actions and intent of the North Carolina General Assembly, not Plaintiffs. *See Fed. R. Civ. P. 26(b)(1)* ("The scope of discovery is as follows: Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case. . . and whether the burden or expense of the proposed discovery outweighs its likely benefit."). As such, the work of redacting

or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter.

Plaintiffs intend to withhold any responsive materials identified as part of their reasonable search that are subject to the privileges and/or First Amendment protection. Documents withheld pursuant to the aforementioned privileges and/or First Amendment protection will be disclosed to Defendants in privilege logs accompanying Plaintiffs' rolling productions."

Legislative Defendants' Response:

As with your deficient responses to several interrogatories, this response erroneously cites to the First Amendment and *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958) as a basis for withholding responsive documents. As explained for Interrogatory no. 5, this request is narrowly tailored and seeks documents which are directly probative of alleged harm caused by the 2023 Plans, as well as Organizational Plaintiffs' standing to challenge the same. These inquiries are fundamental to the case, and Legislative Defendants are entitled to test the veracity of your claims. As such, your objections based on relevance are similarly misplaced and your stated intent to withhold responsive documents is not justified. Please ensure your document productions are conducted with the foregoing in mind.

REQUEST FOR PRODUCTION NO. 4 to NAACP Plaintiffs

To Organizational Plaintiffs: Excluding those documents protected by the attorney-client privilege, all documents reflecting or referring to any alleged "harm" or "injury" you claim to have suffered as a result of the 2023 Plans, including but not limited to financial records, communications, emails, notes, text messages, or recordings.

To Individual Plaintiffs: Excluding those documents protected by the attorney-client privilege, all documents reflecting or referring to any conversation or communication you had with any third party about any alleged "harm" or "injury" you claim to have suffered as a result of the 2023 Plans, including but not limited to, emails, notes, text messages, or recordings of any such conversations or communications.

NAACP Plaintiffs' Objections:

"Plaintiffs' General Objections are incorporated by reference in this response.

Plaintiffs object to this RFP because it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, financial information, and the internal deliberations of the Organizational Plaintiffs and their members, would chill protected First Amendment speech and

activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information. Furthermore, the burden and expense of redacting or screening for this information would far outweigh any use or relevance it has to the claims and defenses in this matter.

Plaintiffs further object to this RFP because its request for “all documents” without any temporal limit is beyond the scope of permissible discovery and unduly burdensome. Organizational Plaintiffs assert only representational standing in this matter as representatives of their members, which does not require a showing of “harm” *per se* but rather demonstration that (a) an organization’s members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose, and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Hunt v. Washington State Apple Advertising Comm’n*, 432 U.S. 333, 343 (1977). Similarly, the Individual Plaintiffs’ basis for standing and the alleged harm is otherwise substantiated by their residence, voter registration status, and racial identity, and thus this request for “all documents reflecting or referring to any conversation or communication you had with any third party about any alleged ‘harm’ or ‘injury’” without any temporal limit is not proportionate to the needs of this case in light of the claims and defenses asserted.”

Legislative Defendants’ Response:

As to Organizational Plaintiffs, again, the First Amendment and *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449 (1958) are not valid bases to object or withhold responsive documents. The requested categories of documents are specifically probative of all three criteria Organizational Plaintiffs must satisfy in order to maintain associational standing here. *See, e.g., Maryland Highways Contractors Ass’n, Inc. v. State of Md.*, 933 F.2d 1246, 1251 (4th Cir. 1991) (citing *Hunt v. Washington State Apple Advertising Comm’n*, 432 U.S. 333, 343 (1977)). Your response’s identification of certain sources of this information for Individual Plaintiffs further proves why the same is necessary from Organizational Plaintiffs. Claiming that Organizational Plaintiffs have “identified members” in the other challenged districts, but then refusing to specifically identify them or provide necessary information and documents related to their involvement in the organization or its operations is irreconcilable with the spirit and purpose of discovery. Similarly, the protective order in effect further mitigates your stated concerns. As such, please take care to incorporate these considerations into your document production.

REQUEST FOR PRODUCTION NO. 5 to both NAACP and Williams Plaintiffs

To all Plaintiffs: Copies of all posts, statuses, or direct messages made by you on any Social Media platform or other website that relate to or reflect any of the allegations or claims you have made in this lawsuit, or otherwise related to redistricting since January 1, 2020.

NAACP Plaintiffs’ Objections:

“Plaintiffs’ General Objections are incorporated by reference in this response.

Plaintiffs object to this RFP to the extent it seeks associational information that is protected under the First Amendment because its disclosure would intrude upon Plaintiffs’ freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). Disclosure of associational information, such as membership names, contact information, financial information, and the internal deliberations of the Organizational Plaintiffs and their members, would chill protected First Amendment speech and activities. As it is the actions and intent of the North Carolina General Assembly, not Plaintiffs, at issue in this matter, there is no compelling need for the disclosure of this information. Furthermore, the burden and expense of redacting or screening for this information, especially given the overbroad time period spanning back to January 1, 2020 (which Plaintiffs also object to), would far outweigh any use or relevance it has to the claims and defenses in this matter.”

Williams Plaintiffs’ Objections:

“Ms. Williams objects to this request because it seeks information that is neither relevant to her claims nor proportional to the needs of the case. Plaintiff also objects to this Request because it seeks communications that are protected by the First Amendment privilege. *See Christ Covenant Church v. Town of Sw. Ranches*, No. 07-60516-CIV, 2008 WL 2686860, at *5 (S.D. Fla. June 29, 2008) (“[A] qualified First Amendment associational privilege exists in the discovery context, potentially exempting a party from having to respond to infringing discovery requests.”). As phrased, the Request purports to seek private communications between Plaintiff and those with whom she associates for expressive reasons; producing such communications would burden and/or chill Plaintiff’s speech and ability to freely associate.”

Legislative Defendants’ Response:

While *NAACP* Plaintiffs’ response states that you will produce responsive documents, your objections raise specific concerns. **First**, for the reasons discussed throughout this letter, your recitation of the First Amendment and *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 499 (1958) are unconvincing and inapplicable. The documents requested are specifically relevant to allegations of harm and injury, as well as an analysis of standing. **Second**, withholding responsive documents on this basis would be even more improper considering the request seeks documents that was disclosed on public platforms to third parties.

Similar to *NAACP* Plaintiffs, *Williams* Plaintiffs’ responses to this request note that searches will be conducted and productions will be made. However, the response and objections raise specific concerns. Primarily, your response artificially limits the request’s timeframe, without justification. Specifically, the request seeks Social Media posts and messages from January 1, 2020 to present. However, your response notes that the searches will only be from January 1, 2023 to December 4, 2023. Not only is this contrary to the request itself, but you have not provided any purported basis upon which you are restricting your searches. Please identify exactly why you

believe this limitation is warranted. Further, the objections based on the First Amendment are, yet again, inapplicable. This request seeks information that was either: (1) posted and/or made available to third parties (thus waiving any claim of privilege and mooted any potential burden or “chilling” of speech); or (2) sent to a third party via a Social Media platform. Regarding the latter, the request only seeks communications and documents relating to your allegations in this matter. Not only are the documents sought directly relevant to the claims, but they are specifically probative of your assertions of injury and harm. Thus, to the extent you plan on withholding any documents based on this objection, we ask that you reconsider with the foregoing in mind. Again, it bears repeating that the protective order’s confidentiality provisions further alleviate concerns of any burden or chilling effect on any Individual Plaintiff’s speech. [Dkt. no. 55].

Please provide the supplementation requested herein or schedule a time to meet and confer on these issues by September 13, 2024.

Sincerely,



Alyssa M. Riggins

cc: All counsel.

EXHIBIT D

NAACP Plaintiffs' September 20, 2024 Discovery Letter



PO Box 51280
Durham, NC 27717
919-323-3380
southerncoalition.org

Via Electronic Mail

September 20, 2024

To: Philip J. Strach, Alyssa M. Riggins, Cassie A. Holt, Richard B. Raile, Katherine L. McKnight, Trevor Stanley, Patrick T. Lewis, Erika Prouty
Counsel for Legislative Defendants

RE: NAACP Plaintiffs' Responses and Objections to Legislative Defendants' First Sets of Discovery in *Williams v. Hall*, M.D.N.C. No. 23-CV-1057 (lead) and *NC NAACP v. Berger*, No. 23-CV-v1104 (consolidated)

Counsel:

We received and reviewed Legislative Defendants' ("Defendants") September 5 correspondence ("Letter") regarding NAACP Plaintiffs' July 11 written responses (the "NAACP Discovery Responses") to Defendants' June 11 First Set of Interrogatories and Requests for Production of Documents ("Defendants' Discovery Requests").

Since receiving Defendants' initial discovery requests in June, NAACP Plaintiffs have worked diligently to search for, collect, and produce responsive documents and information. Plaintiffs received Defendants' Discovery Requests on June 11, 2024, seven weeks after written discovery opened in this matter. Plaintiffs timely served initial written responses on July 11 identifying Plaintiffs' positions regarding each request and offering to meet and confer generally about any objection or response, and also with respect to specific positions. *See* Reservation of Rights; Response to Interrogatory Nos. 5 and 6; Response to Request for Production Nos. 6 and 7. In the nearly two months that followed, in which Defendants failed to raise any concerns, Plaintiffs worked diligently—spending substantial time and resources—to collect and perform searches for responsive information across nine different clients. Specifically, during this time, Plaintiffs have collected and reviewed thousands of documents across numerous custodians as well as client social media accounts, and begun rolling productions in which we have produced over 1,500 pages of documents as of the date of this correspondence.

Plaintiffs intend to continue making rolling productions as they are ready and on a reasonable timeline in light of Defendants' delayed requests. However, to the extent Defendants' September 5 Letter requests measures that would require Plaintiffs to significantly alter their collection and search parameters, such measures are waived by lack of diligence on Defendants' part, and would be overly burdensome and disproportionate to the needs of the case, as well as unduly prejudicial given Defendants' delays, the rapidly approaching fact discovery deadlines, and the substantial work Plaintiffs have performed to respond to Defendants requests to date.



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Below we have outlined our responses to Defendants' specific concerns. The fact that certain issues are discussed or clarified below is not an admission to that effect, nor is the absence of any issue from the following discussion to be construed as a waiver of that or any related issue. NAACP Plaintiffs remain willing to meet and confer as necessary to streamline discovery and avoid unnecessary motions practice.

NAACP Plaintiffs' Interrogatory Responses and First Amendment Privilege

NAACP Plaintiffs generally disagree with Defendants' positions regarding the protections of the First Amendment raised in Part I of their Letter. Specific responses to Defendants' positions are provided below for each specific Interrogatory that Defendants take issue within their Letter.

Interrogatory No. 4

Plaintiffs have already identified to Defendants, in the Complaint and in their Response, the following individuals who have standing for the claims asserted in this matter and who are members of the North Carolina NAACP: Plaintiff Calvin Jones, Plaintiff Corine Mack, Plaintiff Dawn Daly-Mack, Plaintiff Hollis Briggs, Plaintiff Mitzi Reynolds Turner, Plaintiff Linda Sutton, and Plaintiff Syene Jasmin. *See* Compl. ¶¶ 18-22, 24-25. Plaintiffs have also already identified Plaintiff Mitzi Reynolds Turner as a member of Common Cause. *See* Compl. ¶ 22; NAACP Discovery Responses at 17. Accordingly, Plaintiffs North Carolina NAACP and Common Cause have already met the requirement under *Summers v. Earth Island Institute* to "identify members who have suffered the requisite harm" to establish standing for Voting Rights Act and Constitutional claims here. 555 U.S. 488, 499 (2009); *see also, Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 269 (2015) (A membership organization has standing to challenge a district that is the product of unlawful state action when it has members residing in that district.).¹

¹ *See also Perry-Bey v. City of Norfolk*, 678 F. Supp. 2d 348, 363-64 (E.D. Va. 2009) (Standing under Section 2 of the Voting Rights Act requires a showing an individual is a "member of a minority whose voting strength was diluted" on account of race or color and that they are a registered voter residing in that minority-voting area where the dilution has occurred.); *Gill v. Whitford*, 585 U.S. 48, 65-66(2018) (An individual has standing to for racial gerrymandering claims in "his own district" and can challenge intentional discrimination where he has "a personal stake in the outcome of the controversy."); *Hancock Cnty. Bd. of Supervisors v. Ruhr*, 487 F. App'x. 189, 196 (5th Cir. 2012) (For malapportionment claims, "[i]t is settled . . . that a voter from a district that is overpopulated and under-represented suffers an injury-in-fact.").



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In addition to already identifying specific members by name when filing this action last year, Plaintiffs North Carolina NAACP and Common Cause further detailed in their response to Interrogatory No. 4 that each organization has additionally confirmed they have specific members who are registered to vote in the specific challenged districts within the Senate Plan, House Plan, and Congressional Plan districts and who identify as Black or African American. *See* Compl. ¶ 15, 17; NAACP Discovery Responses at 12-13. Plaintiffs are further prepared to provide evidentiary support for these confirmations, in the format of organizational affidavits, establishing that specific members were confirmed in the challenged districts listed and that the public disclosure of membership information would have a chilling effect in violation of the First Amendment. These disclosures, together, establish the Organizational Plaintiffs' standing to challenge the districts at issue in the Complaint since, in multi-plaintiff cases, only "one plaintiff must have standing to seek each form of relief requested in the complaint," *Town of Chester v. Laroe Ests., Inc.*, 581 U.S. 433, 439 (2017), and thus if there is one plaintiff "who has demonstrated standing to assert these rights as his own," the court "need not consider whether the other individual and corporate plaintiffs have standing to maintain the suit." *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 264 & n.9 (1977); *see also Horne v. Flores*, 557 U.S. 433, 446-47 (2009).

Importantly, the authority Defendants rely on to assert that specific Organizational Plaintiff member names must be disclosed (*Summers v. Earth Island Inst.*, 555 U.S. 488 (2009)) does not even once mention the First Amendment privilege. It therefore cannot support Defendants' assertions that Plaintiffs must disclose member names when there is a First Amendment privilege protection and cannot instead establish standing through evidentiary methods that otherwise support that specific members in challenged districts have been identified and exist. Indeed, the Supreme Court in *Summers* cited directly to the case establishing that disclosure of NAACP membership lists is squarely protected under the First Amendment as an example in which the identification of specific members is not required, *see* 555 U.S. at 499 (citing *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 459 (1958)), and thus tends to support instead that the First Amendment protects this information from disclosure. Defendants have otherwise failed to provide any authority binding in this Circuit establishing that membership names must be disclosed for purposes of standing when First Amendment privilege applies and when evidence has been provided that otherwise establishes members in fact exist in challenged districts.

To avoid unnecessary court intervention regarding this issue, we request a meet and confer at Defendants' earliest convenience to confirm that the production of organizational affidavits will resolve Defendants' request for additional member names and any expected challenges to the Organizational Plaintiffs' standing in the districts specified in those affidavits. We would also like to discuss Legislative Defendants' proposal that "Organizational Plaintiffs confirm in writing that they will not seek to introduce any evidence concerning the subject matter of members whose standing Organizational Plaintiffs will assert at any time in this case," Defendants' Letter at 3, as



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we require clarification on this proposal to fully consider it and remain open minded to finding a mutually-acceptable agreement on this issue. Please provide dates and times with Defendants' availability.

Interrogatory No. 5

NAACP Plaintiffs maintain that this Interrogatory No. 5 is not narrowly tailored as it is extremely broad, and Defendants have failed to provide any clarification to date that might narrow it. NAACP Plaintiffs stand firm in their objection to this Interrogatory No. 5 as to its timing (January 1, 2020 through the present). It is also overbroad and disproportionate to the needs of the case given it was Legislative Defendants' actions, not those of Plaintiffs', that have caused the harm alleged in this matter and form the basis of the defenses asserted.

In the NAACP Discovery Responses, Plaintiffs requested that Defendants "articulate the relevance of this information to any claim or defense in the instant action. [And] Plaintiffs request[ed] to meet and confer with Defendants regarding this Request before they are able to provide a response." NAACP Discovery Responses at 16. Your response, provided nearly two months later, fails to articulate this beyond vague and generalized assertions (without any legal authority to support) that this request is "narrowly tailored" to seek information "probative of both NAACP Plaintiffs' specific alleged injuries and Organizational Plaintiffs' standing." Defendants' Letter at 5. For example, it is not well established as a general matter why communications obtained by Plaintiffs from anyone other than Legislative Defendants would be probative of whether these plans were enacted with race predominating and with the intent to diminish Black voting power as alleged by Plaintiffs. Without more specifics, you have failed to articulate why communications to Plaintiffs relate to claims or defenses in this matter so as to render this request proportionate to the needs of the case as required under applicable law, and namely Rule 26 of the Federal Rules of Civil Procedure.

By contrast, Plaintiffs can easily establish that Defendants' request in Interrogatory No. 5 that they identify "*all* persons or entities" who have provided "*any* written or oral statement . . . concerning *any* matter related to the allegations" over a four-year time span is, on its face, overly broad and unduly burdensome. *See, e.g., In re Camp Lejeune Water Litig.*, No. 7:23-CV-897, 2024 U.S. Dist. LEXIS 160623, at *12 (E.D.N.C. Aug. 30, 2024) ("Plaintiffs' Seventh Request for 'all documents' located on 'any storage device' related to 'Camp Lejeune Water Contamination Issues' for the ten listed individuals is facially overbroad.").

NAACP Plaintiffs also note we have *already agreed* to produce of responsive non-privileged communications identified following a reasonable search of public, non-privileged communications within the time period January 1, 2023, to December 19, 2023, in response to



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Defendants' Requests for Production Nos. 2, 4, and 5 which seek much of the same information as this Interrogatory. *See* NAACP Discovery Responses at 33-35. Accordingly, Defendants have and will continue to receive information responsive to this Interrogatory through documentary productions. If this is not satisfactory to Defendants, please articulate why and we will seek to meet and confer regarding this issue to address Defendants' concerns consistent with applicable law.

Interrogatory No. 6

NAACP Plaintiffs' Response to Interrogatory No. 6 directly responded to Defendants request by identifying whether each individual Plaintiff is a member of organizational Plaintiffs North Carolina NAACP and/or Common Cause. Defendants have failed to articulate (as requested) how individual Plaintiffs' organizational affiliations (including religious affiliations) over the span of 8 years, which are otherwise protected under the First Amendment, are "highly relevant" to claims or defenses here. *See* Defendants' Letter at 6. The only explanation Defendants have provided for this is to assert, without citation to authority or case law, that "politics is a defense to claims like those here." Defendants' Letter at 3. And Defendants' citation in their Letter to *Alexander v. S.C. State Conference of the NAACP*, 144 S. Ct. 1221 (2024), without any pin citation to a page or any quotation or parenthetical, also does not help to clarify the scope of this request or the relevance of this information to claims and defenses here. Defendants' Letter at 6. To the contrary, the Court in *Alexander* made clear that it is the political motivations of *the Legislature*, and not Plaintiffs, that must be disentangled to prove a racial gerrymander. *See, e.g.*, 144 S. Ct. at 1235. It thus defies logic at how Plaintiffs' associations, presumably unknown to the legislators and map-drawers, could have any bearing on the discriminatory intent alleged by Plaintiffs here.

Defendants have also failed to provide the clarifications for this Request that Plaintiffs identified were needed to provide a response. *See* NAACP Discovery Responses at 17 ("Plaintiffs further object to this request because the terms 'member' and 'were otherwise involved' is undefined and vague and thus unduly burdensome to the extent that it expands the scope of discovery in a manner that is not proportional to the needs of the case. Whether or not someone is considered a 'member' and considers themselves a 'member' is dependent on the organization, and without further specification on what Legislative Defendants mean by 'member' or 'involved' Plaintiffs are unable to answer this interrogatory.").

Accordingly, Plaintiffs ask that Defendants provide the requested clarification on the terms "member" and "were otherwise involved in" in the Request, articulate why the span of eight years is appropriate, and articulate what part of the *Alexander* decision you are relying on. As stated, and without additional clarification or information, NAACP Plaintiffs maintain that disclosure of this



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would intrude upon Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958).

In a good faith effort to resolve this issue, NAACP Plaintiffs agree to provide the public voter record for the Individual Plaintiffs indicating their registered party affiliation and which primary elections they have participated in as a voter in this state, and have provided that to Defendants via email with this letter in documents with bates range NAACPPS_0001509 – NAACPPS_0001537.

NAACP Plaintiffs' Responses to Requests for Production

NAACP Plaintiffs have already agreed to conduct a reasonable search for responsive non-privileged documents in response to Defendants' Requests for Production No. 2, 4, and 5, and to otherwise disclose expert materials consistent with the scheduling order in this matter and applicable law and rules of procedure. NAACP Discovery Responses 32-35. Since that time, Plaintiffs have produced hundreds of responsive documents and timely disclosed opening expert materials. In their Letter, Defendants' have failed to identify specific issues or deficiencies in the production set the NAACP Plaintiffs have agreed to search and produce. Accordingly, NAACP Plaintiffs are diligently continuing their document review and rolling production consistent with their Responses, as described below, without waiving any of their Specific and General Objections.

Request for Production No. 2

NAACP Plaintiffs disagree with Defendants' position that this Request No. 2 is "narrowly tailored and seeks documents which are directly probative of alleged harm caused by the 2023 Plans, as well as Organizational Plaintiffs' standing to challenge the same." Defendants' Letter at 8. Notwithstanding NAACP Plaintiffs' Specific and General Objections, NAACP Plaintiffs agreed in their Response to produce responsive non-privileged communications identified following a reasonable search of public, non-privileged communications within the time period January 1, 2023 to December 19, 2023. NAACP Discovery Responses at 32-33. Consistent with their Response, NAACP Plaintiffs have conducted a reasonable search for such communications and included responsive non-privileged communications in the rolling production to date. NAACP Plaintiffs are continuing to diligently conduct a reasonable search for the requested communications and anticipate further rolling productions containing non-privileged responsive information. NAACP Plaintiffs also intend to provide a First Amendment privilege log at the close of document productions in this matter. Plaintiffs request that Defendants clarify whether they are contesting the scope of documents NAACP Plaintiffs have agreed to search and produce, and to meet and confer regarding this issue.



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Request for Production No. 4

NAACP Plaintiffs maintain that certain associational information sought by Request No. 4 is protected under the First Amendment because its disclosure would intrude upon NAACP Plaintiffs' freedom of speech, belief, or association, and no compelling need for the information exists. *See, e.g., NAACP v. Alabama*, 357 U.S. 449, 460 (1958). As indicated above, we request to meet and confer with Defendants regarding their understanding that the First Amendment privilege does not apply to disclosure of individual members of North Carolina NAACP and Common Cause.

NAACP Plaintiffs also clarified, in their response, that "Organizational Plaintiffs assert only representational standing in this matter as representatives of their members." NAACP Discovery Responses at 34. Defendants' request is thus disproportionate in light of the basis for standing that the Organizational Plaintiffs intend to rely on, and Defendants' have failed to articulate why this information is still relevant in light of that.

Notwithstanding NAACP Plaintiffs' Specific and General Objections, NAACP Plaintiffs have already agreed in their Response to Request No. 4 to produce responsive, non-privileged communications identified following a reasonable search of public, non-privileged communications within the time period January 1, 2023 to December 19, 2023. NAACP Discovery Responses at 34. Consistent with their Response, NAACP Plaintiffs have conducted a reasonable search for such communications and included responsive non-privileged communications in the rolling production to date. NAACP Plaintiffs are continuing to diligently conduct a reasonable search for the requested communications and anticipate further rolling productions containing non-privileged responsive information. NAACP Plaintiffs also intend to provide a First Amendment privilege log at the close of document productions in this matter. Plaintiffs request that Defendants clarify whether they are contesting the scope of documents NAACP Plaintiffs have agreed to search and produce, and to meet and confer regarding this issue.

Request for Production No. 5

Defendants' Letter does not address how the burden and expense of redacting or screening for the information requested in Request No. 5, especially given the overbroad time period spanning back to January 1, 2020 (which Plaintiffs also object to), far outweighs any use or relevance this information has to the claims and defenses in this matter.

Notwithstanding NAACP Plaintiffs' Specific and General Objections, NAACP Plaintiffs agreed in their Response to Request No. 5 to produce responsive, non-privileged social media postings discussing the redistricting of North Carolina's statewide plans identified following a reasonable



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search of Plaintiffs' social media postings within the time period of January 1, 2023 to December 19, 2023. NAACP Discovery Responses at 34-35. Consistent with their Response, NAACP Plaintiffs are continuing to diligently conduct a reasonable search for the requested postings, statuses, or direct messages, and anticipate further rolling productions containing non-privileged responsive information. NAACP Plaintiffs also intend to provide a First Amendment privilege log at the close of document productions in this matter. Plaintiffs request that Defendants clarify whether they are contesting the scope of documents NAACP Plaintiffs have agreed to search and produce, and to meet and confer regarding this issue.

Kind regards,

A handwritten signature in blue ink, appearing to read "H. Klein".

Hilary Harris Klein

EXHIBIT E

Email Correspondence

From: [Prouty, Erika Dackin](#)
To: [McKnight, Katherine L.](#); [Hilary Harris Klein](#)
Cc: [Jyoti Jasrasaria](#); [Chris Shenton](#); [Terence Steed](#); [Mary Carla Babb](#); [Corey T. Leggett](#); [Harmony A. Gbe](#); [Jeff Loperfido](#); [jessica.ellsworth](#); [Tom Boer](#); [Madeleine R. Bech](#); [Misty Howell](#); [Odunayo Durojaye](#); [Olivia Molodanof](#); [Abha Khanna](#); [Mark Haidar](#); [nghosh@pathlaw.com](#); [Alison Ge](#); [Lily Talerman](#); [Jordan Koonts](#); [Phil Strach](#); [Raile, Richard](#); [Lewis, Patrick T.](#); [Stanley, Trevor M.](#); [Cassie Holt](#); [Alyssa Riggins](#)
Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)
Date: Friday, October 4, 2024 3:39:47 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[2024.10.04 Notice of Deposition of Common Cause.pdf](#)
[2024.10.04 Notice of Deposition of North Carolina NAACP.pdf](#)

Hilary,

As Kate mentioned, attached are the Rule 30(b)(6) notices for Plaintiffs NC NAACP and Common Cause. We have inserted placeholder dates for now, but please confirm dates for these depositions.

Sincerely,

Erika Prouty
Associate

BakerHostetler

200 Civic Center Drive | Suite 1200
Columbus, OH 43215-4138
T +1.614.462.4710

eprouy@bakerlaw.com
bakerlaw.com



From: McKnight, Katherine L. <kmcknight@bakerlaw.com>
Sent: Friday, October 4, 2024 2:42 PM
To: Hilary Harris Klein <hilaryhklein@scsj.org>
Cc: Jyoti Jasrasaria <jjasrasaria@elias.law>; Chris Shenton <chrishshenton@scsj.org>; Terence Steed <Tsteed@ncdoj.gov>; Mary Carla Babb <MCBabb@ncdoj.gov>; Corey T. Leggett <corey.leggett@hoganlovells.com>; Harmony A. Gbe <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; jessica.ellsworth <jessica.ellsworth@hoganlovells.com>; Tom Boer <tom.boer@hoganlovells.com>; Madeleine R. Bech <madeleine.bech@hoganlovells.com>; Misty Howell <misty.howell@hoganlovells.com>; Odunayo Durojaye <odunayo.durojaye@hoganlovells.com>; Olivia Molodanof <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com; Alison Ge <age@elias.law>; Lily Talerman <Lily@scsj.org>; Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; Prouty, Erika Dackin <eprouy@bakerlaw.com>; Cassie Holt

<cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>

Subject: Re: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Thank you, Hilary.

The parties view the issue very differently and we already have detailed two different ways to resolve it (Plaintiffs rest on their assertion of privilege and forego discovery and evidence about their members, or Plaintiffs provide to us by today the names and addresses of Standing Members so they may be examined during the discovery period).

We understand Plaintiffs have declined our offer to resolve this issue and that you intend to file something with the Court.

Kate

On Oct 4, 2024, at 1:03 PM, Hilary Harris Klein <hilaryhklein@scsj.org> wrote:

Kate,

Thank you for your email. Just to clarify, my proposal below did not ask for a stipulation of standing as you state in your latest email. Nor do plaintiffs intend at this time to introduce testimony from members who have not been disclosed by name, unless required by the Court, and in that instance limited in the way I set out below. I just wanted to ensure you understood that before we file our motion.

I intend to file around 4pm. If you have reconsidered based on a prior misunderstanding of our proposal, please reach out before then. Otherwise, I will understand Legislative Defendants have declined our offer to resolve this issue.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
[scsj.org](https://www.scsj.org) | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
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the sender by replying to this transmission and delete the message without disclosing it. Thank you.

From: McKnight, Katherine L. <kmcknight@bakerlaw.com>
Sent: Friday, October 4, 2024 11:39 AM
To: Hilary Harris Klein <hilaryhklein@scsj.org>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Chris Shenton <chrisshenton@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; jessica.ellsworth <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>; Lily Talerman <Lily@scsj.org>
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>
Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Thank you for your e-mail, Hilary.

While we appreciate your effort to resolve disputes without court intervention, we are not sure what Plaintiffs are asking us to do with what you write below. We do not have the authority to waive Plaintiffs' burden to establish standing. We are content to take Plaintiffs' assertion of "First Amendment" privilege, and move on from any discovery into any of its members. However, Plaintiffs seem to intend to rely on members to establish standing in this case, while at the same time asserting privilege against discovery about those Standing Members. We view this as a straightforward violation of the sword and shield doctrine and have put Plaintiffs on notice of our position. We are aware of no case law that deems discovery about standing "way beyond the bounds of permissible discovery."

As we have previously explained, the late timing of future disclosures in response to discovery served long ago will prejudice our defense of this suit. Plaintiffs are incorrect to blame "Defendants' own lack of diligence in discovery." The interrogatory was served on June 11, 2024, and Plaintiffs' response was due on July 11, 2024. At that time, Plaintiffs asserted privilege against the disclosure of information within the scope of the interrogatory. While a proper privilege assertion would provide a defense to timely production, the assertion here is improper because it is selective: Plaintiffs now

seek to pick and choose what responsive information to produce, whereas privilege rises or falls as one with the subject matter. It is the abuse of the privilege that has caused the delay, and we will seek relief from resulting prejudice as appropriate. This could include, without limitation, objecting to any introduction or use of responsive information at any time going forward, or seeking alteration of case deadlines, including the trial date. We also will object to use or introduction of redacted or incomplete documents under Federal Rule of Evidence 106. We are entitled to examine witnesses on whom Plaintiffs rely for standing in this matter, and to vet the selective hearsay assertions made in the affidavits you propose below.

We understand that Plaintiffs will do what they think is necessary as far as approaching the court. We agree that we have satisfied Local Rule 37.1(a) conference and consultation requirements.

On a related note, we will be serving notices today for the 30(b)(6) depositions of organizational plaintiffs. When possible, could you let us know dates of availability for these depositions?

Thank you and kind regards,

Kate

Katherine L. McKnight
Partner

<image005.png>

<image001.png>

Washington Square
1050 Connecticut Ave N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1618

kmcknight@bakerlaw.com

bakerlaw.com

<image002.png>

<image003.png>

From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Wednesday, October 2, 2024 5:13 PM

To: Prouty, Erika Dackin <eprouthy@bakerlaw.com>; Jyoti Jasrasaria

<jjasrasaria@elias.law>; Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins

<alyssa.riggins@nelsonmullins.com>; Chris Shenton <chrisshenton@scsj.org>; Steed,

Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>;

Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; jessica.ellsworth <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>; Lily Talerman <Lily@scsj.org>

Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Counsel,

I write in response to your most recent letter on September 27 as well as our September 26th meet and confer. Let me first clarify one item from your letter – Organizational Plaintiffs are not “wavering” on the assertion of First Amendment privilege over their member identities as you state in your letter. To the contrary, what I expressed in our September 26 meet and confer was a good faith effort to find common ground on this issue to avoid the need for court intervention (by providing member voter files reflecting their voting districts and race but redacted of personal information, in addition to organizational affidavits), and that we would otherwise seek to comply with any court order in the future. But to date we do not understand either the Federal Rules or applicable law to require or necessitate the disclosure of member identities.

I understand that Defendants both seek the identities of specific members of the North Carolina NAACP and Common Cause in challenged districts, and to depose those members. We believe this request to be way beyond the bounds of permissible discovery, and something that would greatly burden and likely intimidate non-party members of these organizations. Accordingly, we intend to seek clarification from the Court on this issue and a protective order over membership identities by filing a motion for a protective order on Friday. Since Defendants have indicated they believe they will experience prejudice after this date, we feel a need to act quickly to resolve this issue, although we dispute the assertions of prejudice and attribute the timing of this issue to Defendants’ own lack of diligence in discovery.

In an effort to resolve Defendants’ concerns regarding standing and also avoid Court intervention, NAACP Plaintiffs are willing to provide specific member voting records reflecting their self-designated race, city, zip code, party affiliation, voting history, and current voting districts but redacted of personally identifying information (including redacting the name, street address (but not town / zip), Voter Registration Number, and NCID). These would be redacted version of the same documents we provided for the individual plaintiffs in our prior production. In exchange, we would ask for an agreement that Defendants will not seek to depose any members who are not otherwise disclosed by name to Defendants, and a stipulation from Defendants that Organizational Plaintiffs have established that specific individual members reside in those districts. NAACP Plaintiffs would need at least two weeks in order to seek permission to disclose this information from individual members. NAACP Plaintiffs will also agree not to call any members who are not otherwise disclosed by name to Defendants at trial, unless ordered by the Court to establish standing, and in that case testimony would only be offered to establish (1) their membership in the organization and (2) that

they are an eligible voter identifying as Black/African American in particular area intending to vote. NAACP Plaintiffs also offer the Organizational Plaintiffs for depositions on standing pursuant to Rule 30(b)(6), and note that, to date, we have not received notices for such depositions. We attach here declarations setting forth evidence of standing and how members were identified for reference, including the Maxwell Declaration previously provided to you on September 25.

Please let me know by Friday, October 4, at 12pm whether you can agree to this proposal. I believe our prior meet and confer on this issue, as well as our extensive exchange of letters, to have satisfied the Local Rule 37.1(a) conference and consultation requirements. However, if you disagree, I am also available Friday, October 4 from 10 – 11am or 11 – 12pm for any further consultation that would help us to resolve this issue.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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Kind regards,

From: Prouty, Erika Dackin <eprouthy@bakerlaw.com>
Sent: Friday, September 27, 2024 2:49 PM
To: Hilary Harris Klein <hilaryhklein@scsj.org>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Chris Shenton <chrishshenton@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; jessica.ellsworth <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>; Lily Talerman <Lily@scsj.org>
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; McKnight, Katherine L.

<kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

Please see the attached correspondence following up on yesterday's meet and confer.

Sincerely,

Erika Prouty

Associate

<image006.png>

<image001.png>

200 Civic Center Drive | Suite 1200

Columbus, OH 43215-4138

T +1.614.462.4710

eprouthy@bakerlaw.com

bakerlaw.com

<image002.png>

<image003.png>

From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Wednesday, September 25, 2024 4:31 PM

To: Prouty, Erika Dackin <eprouthy@bakerlaw.com>; Jyoti Jasrasaria

<jjasrasaria@elias.law>; Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins

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<plewis@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Erika,

Yes, I am available tomorrow (Thursday) 4 – 5pm for a meet and confer. Also, please see attached a declaration from the North Carolina NAACP on this issue, as indicated in our letter.

Kind regards,

Hilary

Hilary Harris Klein

Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
[scsj.org](https://www.scsj.org) | [@scsj](https://www.instagram.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Prouty, Erika Dackin <eprouthy@bakerlaw.com>

Sent: Wednesday, September 25, 2024 12:56 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Jyoti Jasrasaria <jjasrasaria@elias.law>;
Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins

<alyssa.riggins@nelsonmullins.com>; Chris Shenton <chrishshenton@scsj.org>; Steed,

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<plewis@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

We received your September 20, 2024 correspondence. Are NAACP Plaintiffs available tomorrow, September 26 between 12pm and 2pm or between 3:30pm and 5pm ET to meet and confer regarding the NAACP's First Amendment privilege assertions in response to Interrogatory No. 4?

Sincerely,

Erika Prouty

Associate

<image006.png>

<image001.png>

200 Civic Center Drive | Suite 1200

Columbus, OH 43215-4138

T +1.614.462.4710

eprouty@bakerlaw.com

bakerlaw.com

<image002.png>

<image003.png>

From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Friday, September 20, 2024 4:15 PM

To: Jyoti Jasrasaria <jjasrasaria@elias.law>; Cassie Holt

<cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>;

Chris Shenton <chrishshenton@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb,

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<phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

[External Email: Use caution when clicking on links or opening attachments.]

Counsel,

Please find attached *NAACP* Plaintiffs' response to Legislative Defendants' September 5 Letter, as well as *NAACP* Plaintiffs' Second Production of documents and further supplemented Initial Disclosures. The password for the production will be sent under separate cover.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
[scsj.org](https://www.scsj.org) | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Jyoti Jasrasaria <jjasrasaria@elias.law>

Sent: Friday, September 20, 2024 1:37 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Chris Shenton <chrishshenton@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia

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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Counsel,

Please find attached *Williams* Plaintiffs' response to Legislative Defendants' September 5 letter.

Best,
Jyoti

Jyoti Jasrasaria
Elias Law Group LLP
202-968-4552
(she/her/hers)

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From: Hilary Harris Klein <hilaryhklein@scsj.org>
Sent: Wednesday, September 18, 2024 3:41 PM
To: Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Chris Shenton <chrishshenton@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>
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<[rraille@bakerlaw.com](mailto:raille@bakerlaw.com)>; Lewis, Patrick T. <plewis@bakerlaw.com>;
tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hi Cassie,

Yes, it is currently our intent to respond in writing by the end of this week.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
[scsj.org](https://www.scsj.org) | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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Sent: Wednesday, September 18, 2024 1:37 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Chris Shenton <chrishshenton@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>

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tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

Consistent with your email below and our conversation in our office earlier this week, can Plaintiffs please confirm that we will receive a response to our letter this week?

<image004.jpg>

CASSIE A. HOLT ASSOCIATE

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Friday, September 13, 2024 5:18 PM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Chris Shenton <chrisshenton@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>

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Subject: Re: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

NAACP Plaintiffs received your letter sent on September 5, and are aware you asked for an answer by today. We have been working diligently on a response, but due to other obligations, including those for this case (such as preparation for Monday's deposition of Sen. Hise), we have not yet been able to finalize a response. We do intend to respond however, and hope to do that next week.

Have a great weekend.

Kind regards,

Hilary

From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>

Sent: Thursday, September 5, 2024 6:02 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Chris Shenton <chrisshenton@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com <nghosh@pathlaw.com>; Alison (Qizhou) Ge <age@elias.law>

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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

Please find attached correspondence directed to both NAACP and Williams' plaintiffs regarding their discovery responses. Responses to the questions from your email this afternoon are in red below.

Best,
Alyssa

<image004.jpg>

ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Thursday, September 5, 2024 2:30 PM

To: Jyoti Jasrasaria <jjasrasaria@elias.law>; Chris Shenton <chrishshenton@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>

Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

Can Legislative Defendants please provide an update on the status of the productions? Specifically:

1. Are we correct that last Friday's production completed what you anticipate producing for Sen. Hise, his assistant, and Mr. Springhetti? **You are correct.**
2. Do you have an update on the third-party productions and your position on including Representatives Saine and Stevens as our subpoenas have requested? **We are a little over half way through our review of the production of the additional 10 custodians. We anticipate being done in the next two weeks or so. If you would prefer we can kick off a partial production and get that to you sooner, but it will delay the overall completion. Please let us know your**

preference. As to Representatives Saine and Stevens, our position is unchanged. Plaintiffs have not demonstrated pursuant to Rule 45 that the information sought from Reps. Saine and Stevens cannot be obtained from the Legislative Defendants in this action and the dozen-plus custodians related to that search.

Additionally, we wanted to confirm that the Harrison deposition is going forward on September 18 at 301 Hillsborough St. in Raleigh. Will there be a remote option? My colleague Madeleine Bech intends to participate for NAACP Plaintiffs. I emailed Rep. Harrison's counsel this afternoon to confirm. I believe the House reconvenes on Monday, so that could impact things. I will let you know once we hear back. In any event, we are happy to send a teams meeting to accommodate Madeleine for the deposition.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.instagram.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Jyoti Jasrasaria <jjasrasaria@elias.law>

Sent: Wednesday, August 21, 2024 2:44 PM

To: Chris Shenton <chrishshenton@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Hilary Harris Klein <hilaryhklein@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com; Alison (Qizhou) Ge <age@elias.law>

Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach

<phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com

Subject: Re: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

The Williams Plaintiffs take the same position with respect to the send path metadata and are also available on October 3 for the deposition of Mr. Springhetti.

I am copying my colleague Alison Ge, who should be included on all future emails. She entered her appearance on behalf of Williams Plaintiffs this week.

Best,
Jyoti

Jyoti Jasrasaria
Elias Law Group LLP
202-968-4552
(she/her/hers)

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From: Chris Shenton <chrishenton@scsj.org>

Sent: Wednesday, August 21, 2024 1:37:42 PM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Hilary Harris Klein <hilaryhklein@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com <ngghosh@pathlaw.com>; Alison (Qizhou) Ge <age@elias.law>

Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach

<phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com <tstanley@bakerlaw.com>

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

Thanks for your email. NAACP Plaintiffs can agree to removing the send path metadata for the search.

We look forward to hearing your position on running the same search terms for Reps. Stevens and Saine. As we stated on the call, NAACP Plaintiffs believe that Reps. Stevens and Saine, as sponsors of one of the challenged laws and members of the House Redistricting committee, are important custodians and should be searched accordingly.

Lastly, NAACP Plaintiffs can confirm that October 3 works for Mr. Springhetti's deposition. We have no issue with accommodating the witness's request for the deposition to proceed in Columbus, but we are arranging for it to proceed at the offices of Thompson Hine located at 41 South High Street, Suite 1700. Please confirm this date with Mr. Springhetti.

Best,
Chris

From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>

Sent: Wednesday, August 21, 2024 10:55 AM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>;

McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Chris and Hilary,

Following up on our meet and confer about the subpoenas to Rep. Saine and Stevens, I wanted to confirm our discussion of the search terms referenced in Hilary's email below. We appreciate your willingness to remove the terms below. This helped with hit volume a great deal. Even with the significant drop removing these terms produced, we still had a large number of hits on boundar*. When we reviewed a sample to see what this could be hitting on, it became clear it was hitting in the metadata for the send path of the emails. Essentially it was hitting on the coding part of the server boundary in the code to send or receive an email. When we remove the back end send path metadata from the search field, we get a reasonable number of documents. Excluding the sendpath metadata does not impact the searching of the text of the emails or even the email addresses themselves. Can you please confirm that Plaintiffs agree to removing the send path metadata from the search? If so, we will promptly begin review.

As to Representatives Saine and Stevens we understand that it is Plaintiffs' position that you want the same confirmatory searches run across these two custodians for the same time frame (calendar year 2023). Our position is that this third party information can be sought from the other 13 custodians that are already being searched. Despite our current disagreement, we will take your position back to our clients and get back to you.

Additionally, we have confirmed that October 3 works for Mr. Springhetti's deposition. We can make him available at Baker Hostetler's office in Columbus, which is where Mr. Springhetti resides. There is the ability to conduct the deposition remotely in the office. Can everyone confirm whether that time and location works so that Mr. Springhetti can block off his schedule?

Best,
Alyssa

<image004.jpg>

ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

From: Hilary Harris Klein <hilaryhklein@scsj.org>
Sent: Friday, August 16, 2024 3:00 PM
To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com
Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

Thank you for your response. Can Legislative Defendants please state the basis for their position that the hit counts created pursuant to search terms Plaintiffs provided to Legislative Defendants are privileged work product? As you know, this is an extraordinarily common device for determining and managing discovery burden, but it can only play this role when it is the basis for a shared conversation. Plaintiffs cannot substantively confer on narrowing or eliminating search terms without having some idea of the role a particular term is playing in the overall burden assessment. If one term is 99% of the hits, for example, we would prefer to modify that term rather than remove it entirely – but without seeing hit counts for the full range of terms, as is customary, we cannot make such an assessment. Plaintiffs are willing to consider modifying or reducing the Boolean term Legislative Defendants identify as problematic, or managing the burden some other way, but cannot do so in a vacuum.

Plaintiffs thus propose the following search term replace the term Legislative Defendants identify as producing too many hits: **(Senate OR House OR Congress*) AND (~~District~~* OR map* OR boundar* OR ~~plan~~* OR draw OR redraw OR "re-draw")**. However, Plaintiffs maintain that their request that Legislative Defendants provide hit counts for the terms be provided.

The depositions for Woodhouse and Blaine are currently not moving forward next

week. Please see the attached updated deposition notices. Plaintiffs will keep Legislative Defendants advised of when those depositions are set.

For Mr. Springhetti's deposition, Plaintiffs could do September 23rd or October 1st through 3rd. The 19th and 20th will not work for us.

Thank you for the updates regarding forthcoming productions from Hise/Fanning/Springhetti, Reives, and Harrison, as well as the verification pages.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>
Sent: Thursday, August 15, 2024 4:06 PM
To: Hilary Harris Klein <hilaryhklein@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com
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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

We write to address your email below and follow up on a few additional discovery related items.

We disagree with your characterization of the timeline and the history of discovery thus far. In fact, we believe that our letter was directly responsive to Plaintiffs representation on our last meet and confer that the list of twenty individuals and organizations were the relevant third parties that Plaintiffs were seeking clarifications on. That being said, we have conferred with our clients, and can make the same representation as made in response to the Williams discovery inquiry. To the best of Legislative Defendants' knowledge, other than opening a public portal for comments during the 2023 public comment period, Legislative Defendants did not affirmatively request input for the 2023 Senate Plan from any third party. Additionally, to the best of Legislative Defendants' knowledge, other than opening a public portal for comments during the 2023 public comment period and their hired consultant, Mr. Blake Springhetti, Legislative Defendants did not affirmatively request input for the 2023 Senate Plan from any third party.

With that, we believe any further searches for third party communications is frankly unnecessary. We understand from our last meet and confer that you believe, at least, confirmatory searches would be appropriate. We are willing to conduct some confirmatory searches, but again, the number of documents reviewed must be reasonable in light of the claims made in this case and the representation made above. Our position on producing you the actual search term report has not, and will not change. As repeatedly stated, we do not provide privileged work product. However, we can provide more specifics on the problem area. The problematic search is the following: **(Senate OR House OR Congress*) AND (District* OR map* OR boundar* OR plan* OR draw OR redraw OR "re-draw")** . This Boolean search alone hits on approximately 77,000 unique documents (with family). The remainder of the requested searches yield a significantly more reasonable amount, so it is just this particular search causing the majority of the hit count. 77,000 documents for one Boolean search is not in the realm of what is reasonable in this instance. From our sample review it appears that "District" and "Plan" are the main terms providing false hits. For example, if someone's signature block says they represent Senate District 1, it hits. We welcome your suggestions to revise this search to yield a more reasonable amount of documents.

Finally, we'd like to follow up on a few discovery housekeeping items below:

1. Can you please advise whether the Woodhouse and Blaine depositions are moving forward next week as indicated in Plaintiffs' subpoenas?
2. We are confirmed for the joint Hise deposition on September 16 and 17 in our

office. For the Springhetti deposition we are working to narrow dates, but are looking at either September 19, 20, 23 or the week of September 30. Are there dates in that range that do not work for you? We can then confirm the remaining dates to Mr. Springhetti to finalize.

3. We anticipate making the penultimate production of documents from the Hise/Fanning/Springhetti document set next week.
4. We are expecting a full production from Representative Reives pursuant to his subpoena this week and will pass that along upon receipt. We are likewise expecting a production from Representative Harrison next week and will pass that along too. Her deposition date of 9/18 was confirmed by counsel.
5. Finally, attached are the verification pages for the interrogatories.

Best Regards,
Alyssa

<image004.jpg>

ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Friday, August 9, 2024 2:15 PM

To: Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>;

McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Cassie,

Regarding the hit counts, if you provide a by-term hit report as we have asked repeatedly for (with total and unique hit counts), we will be able to confer on how to narrow search terms. Please provide this information at first opportunity.

Regarding the letter representation you sent, this letter represents that “neither Legislative Defendants nor their agents solicited or affirmatively sought input on the drawing of the 2023 Legislative Plans *from any of the aforementioned third parties.*” This is not the representation we asked for in the meet and confer and reiterated in the below email chain, which requests a representation that your clients “did not affirmatively seek / solicit input on the 2023 Senate Plan or 2023 House Plan districts or the factors or criteria used to draft those plans *other than from Mr. Springhetti.*”

NAACP Plaintiffs served Requests for Interrogatories nearly four months ago in April seeking information on all individuals and/or entities that drew or provided input in the drawing of the state House and state Senate maps (No. 2 & No. 7). In a good faith effort to avoid going to the court on this issue, we have made significant concessions by narrowing this request to the individuals from whom Legislative Defendants have affirmatively sought / solicited input on those plans. We have made further efforts to narrow down the list of custodians needed to search to identify this information.

It is clear you are able to confer with your clients on this question, and yet you appear to have only asked them for the limited set of third parties we have, again in the interest of conferring in good faith, provided as a courtesy. Legislative Defendants have claimed privilege over an enormous set of documents other than third-party communications. This makes the need for a robust search of third-party communications even more clear with respect to the needs of the case. It cannot be the case that the only category of documents for which a privilege is not claimed is overly burdensome to search. We therefore ask that you confirm whether or not you can provide the representation we have asked for. If you cannot, then we will need to proceed with document discovery of a reasonable scope that will identify this highly relevant information to our claims.

Finally, we are confirmed for Sen. Hise on September 16/17. Please confirm availability for Mr. Springhetti for September as well so counsel can set aside those days.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights

Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.instagram.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Cassie Holt <cassie.holt@nelsonmullins.com>
Sent: Wednesday, August 7, 2024 1:37 PM
To: Hilary Harris Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <[rraile@bakerlaw.com](mailto:raille@bakerlaw.com)>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com
Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

Attached please find correspondence confirming the lack of alternative input. We believe this representation should resolve the issue, but remain open to running some confirmatory searches across the 10 custodians if Plaintiffs feel it is necessary to do so. We continue to believe that Fork and Inman are inappropriate custodians and that the information they possess can be obtained from other more appropriate custodians.

Moreover, our preliminary hit counts on the search terms in my August 2, 2024 email amounted to approximately 80,000 unique documents, which is far outside the realm of a confirmatory search and far outside what is reasonable and proportional for these individuals who are not waiving privilege.

Thank you,

Cassie

<image004.jpg>

CASSIE A. HOLT ASSOCIATE

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Monday, August 5, 2024 2:29 PM

To: Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com

Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <[rraile@bakerlaw.com](mailto:raille@bakerlaw.com)>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Cassie,

Thank you for the update below. Regarding your understanding, my recollection is that is correct re removing “apportion*” due to budget false hits. My recollection is a bit different re Fork and Inman – I recall you agreeing you would ask your clients about uploading their documents to get hit reports in the first instance.

I also believe we are waiting on another representation regarding third-party involvement, as articulated in my 7/26 email below (and repasted here):

We also understand you are inquiring with your clients about whether Legislative Defendants can represent that, in addition to the Congressional plan, they did not affirmatively seek / solicit input on the 2023 Senate Plan or 2023 House Plan districts or the factors or criteria used to draft those plans other than from Mr. Springhetti. Assuming you can make that representation, Plaintiffs can agree that the third-party search terms can be run in the first instance across the identified third parties that we sent along in order to generate those initial hit numbers.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
[scsj.org](https://www.scsj.org) | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Cassie Holt <cassie.holt@nelsonmullins.com>

Sent: Friday, August 2, 2024 3:48 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
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<[rraile@bakerlaw.com](mailto:raille@bakerlaw.com)>; Lewis, Patrick T. <plewis@bakerlaw.com>;
tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

We are transmitting an installment of our rolling production for our three custodians via Titanfile momentarily. The password for this production is: **seju\$6l1pO**

As forecast on our call, this production represents our review of approximately 10,000 documents for Senator Hise, Ms. Fanning (Hise's Legislative Assistant), and Mr. Springhetti, and contains only purely responsive, non-privileged documents. We are still assessing our second level review for privilege, but our goal is still to complete by the end of August.

We can also confirm that the 10 third party custodians have been loaded. As we work to confirm the proposed representations, we have requested preliminary hit counts on the following search terms:

(Senate or House or Congress*) AND (District* OR map* OR boundar* OR plan* OR draw OR redraw OR re-draw)

Redistrict*

gerrymander*

reapportion*

We understood from our meet and confer that Plaintiffs agreed that we could remove *apportion (as was originally in the first Boolean chain) due to its association with budget issues. We also understood on our meet and confer that the parties agreed to proceed with 10 custodians named below first, then further discuss Inman and Fork. As such, we have only loaded the 10 agreed upon custodians at this time.

We will circle back with preliminary hit counts as soon as those are available to us.

Thank you,

Cassie

<image004.jpg>

CASSIE A. HOLT ASSOCIATE

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Friday, July 26, 2024 5:02 PM

To: Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com

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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Cassie,

Thank you for confirming the below and for your time yesterday. We understand from yesterday's conversation and the below that you expect rolling productions for three custodians (Sen. Hise, his assistant, and Mr. Springhetti) to begin next week with the expectation it would be complete by the end of August. We also understand you are seeking authorization to load the third-party custodians in order to generate hit reports for their emails that will inform whether we need to confer on narrowing those search terms to lower volume. From the below it looks like this has begun for 10 custodians, can you confirm the status of the additional (Inman and Fork)?

We also understand you are inquiring with your clients about whether Legislative Defendants can represent that, in addition to the Congressional plan, they did not affirmatively seek / solicit input on the 2023 Senate Plan or 2023 House Plan districts or the factors or criteria used to draft those plans other than from Mr. Springhetti. Assuming you can make that representation, Plaintiffs can agree that the third-party search terms can be run in the first instance across the identified third parties that we sent along in order to generate those initial hit numbers.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Cassie Holt <cassie.holt@nelsonmullins.com>

Sent: Friday, July 26, 2024 4:24 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

Legislative Defendants have just served another installment of their rolling document production via Titanfile. These files are responsive to the document requests pertaining to map files, statpacks and amendments.

We continue to work to get you the first installment of the rolling production from the Hise/Fanning/Springhetti email data next week.

We also wanted to confirm that we are in the process of gathering the custodial data for the following 10 persons:

1. State Senator Philip Berger, President Pro Tempore of the North Carolina State Senate
2. State Representative Timothy Moore, Speaker of the North Carolina House of Representatives
3. Dan Gurley, Deputy Chief of Staff for Speaker Moore
4. State Representative Destin Hall, Chair of the House Redistricting Committee
5. Kari Nadler, Representative Hall's Legislative Assistant
6. State Senator Warren Daniel, Co-Chair of the Senate Redistricting and Elections Committee
7. Andy Perrigo, Senator Daniel's Legislative Assistant
8. State Senator Paul Newton, Co-Chair of the Senate Redistricting and Elections Committee and a Defendant
9. Lori Byrd, Senator Newton's Legislative Assistant
10. Brent Woodcox, Senior Policy Counsel, North Carolina General Assembly

Have a great weekend.

Thank you, Cassie

<image004.jpg>

CASSIE A. HOLT ASSOCIATE

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Thursday, July 25, 2024 10:28 AM

To: Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth,

Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom
<tom.boer@hoganlovells.com>; Bech, Madeleine R.
<madeleine.bech@hoganlovells.com>; Howell, Misty
<misty.howell@hoganlovells.com>; Durojaye, Odunayo
<odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia
<olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark
Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach
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McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard
<rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>;
tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hi Cassie,

I look forward to the call. I noticed you did not reply to the latest email in this thread, and so I am repasting the email I sent yesterday at 5:03pm below so we can ensure nothing gets lost in the correspondence.

Cassie,

We are confirmed for a meet and confer on this issue tomorrow at 10:30am and I have circulated a zoom conference information and calendar invite.

In order to ensure a productive conference, it would be helpful to understand more your basis for asserting burden for this collection. For example, can you share the cost increase for each custodian? Can you share the hit volumes by term for the custodians we have agreed to by search term we have also agreed to so we may explore ways to narrow the review volume overall? Is there any way for these two custodians to explore alternative methods of collection from the platform to further reduce burden?

Regarding the hit number reports, while we have in our records Defendants providing the total number of hits, we do not have hits by search term (unique and redundant) for any of the search terms we have agreed to between the parties, and do not understand how this could be work product when those terms are known to all parties. We sincerely believe that, with more information including hit reports, we can find a way to ensure a collection that both manages burden for Defendants while allowing Plaintiffs to adduce the third-party communications responsive to our requests that we all agree do not fall within any privilege.

Finally, with respect to Mr. Fork and Inman's roles and whether any communications do fall within an attorney-client privilege, it is Defendants' burden to substantiate the privilege applies and Plaintiffs do not have any, much less enough, information indicating that burden has been met for redistricting-related communications. This would be most appropriately done in a privilege log, and as stated above, we are willing to work with Defendants to reduce the likelihood you would have to review communications that do not relate to this lawsuit in preparing such a log. *See Md. Restorative Justice Initiative v. Hogan*, 2017 U.S. Dist. LEXIS 158405, at *10 (D. Md. Sept. 27, 2017) ("The distinction between legal advice and political advice is

particularly relevant to this lawsuit...[i]t is quite possible that some communications between the Governor and the Office of Legal Counsel were made for the purpose of obtaining legal advice, and it is also quite possible that some communications were made for the purpose of obtaining other types of advice that would fall outside the privilege. However, the State needs to provide a complete privilege log detailing the documents for which the privilege is claimed.” (citing *United States v. Jones*, 696 F.2d 1069, 1072 (4th Cir. 1982)).

Kind regards,

Hilary

From: Cassie Holt <cassie.holt@nelsonmullins.com>

Sent: Thursday, July 25, 2024 9:48 AM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

We are looking forward to a productive meet and confer later this morning. Ahead of that call I want to provide some clarity on the search term hits. We will not be able to provide those on the call.

On our meet and confer on July 10, we were clear that we wanted to agree on custodians before running search terms. We made a counter proposal on custodians shortly after our meet and confer on the afternoon of July 10. As indicated on our July 10 call, we did not begin collecting custodian data for the custodians in our counter

proposal. It would have been inefficient and costly to collect, store, and search the custodial data based on the parameters of our counter proposal when it was unclear whether Plaintiffs would accept those parameters or would request additional custodians, necessitating additional collections, processing, and searches.

Plaintiffs waited until Friday, July 19, to reject our counter proposal and request additional custodians. Even setting aside our clearly communicated position that we would run terms only after an agreement on custodians, it is not reasonable to expect that custodial data for 10 custodians for an entire year could be properly collected, transmitted, loaded and processed for searching, searched, and have search reports produced in a mere 3 business days ahead of our call this morning. We are trying to work with you in good faith, but ask that you understand the time it takes to undertake these collections and searches, especially in light of the nine days it took to counter our proposal.

Thank you,

Cassie

<image004.jpg>

CASSIE A. HOLT ASSOCIATE

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Wednesday, July 24, 2024 4:45 PM

To: Cassie Holt <cassie.holt@nelsonmullins.com>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark

Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com

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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Cassie,

We intend to respond to your earlier 12:37pm email, but in the meanwhile I am confirming we are available for the 10:30am meet and confer tomorrow and below are zoom credentials. I will also circulate a calendar invite to this group.

Hilary Klein (she/her) is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us06web.zoom.us/j/81417889353?pwd=lmr3y7idepoqwxstmPIFbYOGJwDbf.1>

Meeting ID: 814 1788 9353

Passcode: 570002

From: Cassie Holt <cassie.holt@nelsonmullins.com>

Sent: Wednesday, July 24, 2024 4:08 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; ngghosh@pathlaw.com

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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Counsel,

Attached for service please find Legislative Defendants' Objections and Responses to *Williams* Plaintiffs' First Request for Production of Documents.

Thank you,

Cassie

<image004.jpg>

CASSIE A. HOLT **ASSOCIATE**

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Cassie Holt <cassie.holt@nelsonmullins.com>

Sent: Wednesday, July 24, 2024 12:37 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

Your response below does not address our main concern about the legal roles Mr. Fork and Mr. Inman perform. As to the hit reports, we have committed that when appropriate we will provide you with hit numbers (which we did while negotiating the terms for Hise and Springhetti), but we have never agreed to supply Plaintiffs with the actual report which is work product.

As discussed on our meet and confer earlier this month, it is incredibly costly to collect this custodial data, process it, and perform hit reports for each custodian. Your email does not address that cost, and in fact demands that we incur the cost of loading data for 10 custodians, regardless of our objections of the number of custodians. Twelve custodians, in addition to the already agreed upon three, is not proportional to the needs of the case. Moreover, it is unclear what information Plaintiffs believe Mr. Fork and Mr. Inman have that cannot be obtained from the other 13 custodians.

We can meet and confer regarding this issue tomorrow (7/25) at 10:30am.

Thank you,

Cassie

<image004.jpg>

CASSIE A. HOLT ASSOCIATE

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Tuesday, July 23, 2024 7:57 PM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo

<odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia
<olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark
Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach
<phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouty@bakerlaw.com>;
McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard
<riraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>;
tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

Rolling productions are preferable for Plaintiffs, thank you. We look forward to hearing dates for Sen. Hise and Mr. Springhetti.

Regarding Fork and Inman, and the budget-related hits you have identified, for those two custodians we would like to meet and confer on a way to further narrow search terms address Defendants' volume-related issues. We have been working as best we can with the extremely limited information Defendants have provided to date. For example, Defendants agreed to provide hit reports early on in our discussions, and despite follow up requests have failed to provide these, limiting our ability to address volume-related issues and narrow terms for Defendants.

Can Defendants please provide hit reports so we can constructively address Defendants' concerns regarding volume for third-party search terms in this manner? This should not hold up your collection of the third-party custodians we agree on to date, and it may allow us to streamline review by narrowing terms appropriately to identify third-party communications that the parties agree are not privileged. Alternatively, Defendants could update your initial disclosures to provide information about who was involved in drawing the challenged plans, which would also allow us to narrow search terms.

The Williams and NAACP Plaintiffs are available tomorrow (Wednesday) 4 – 5pm or Thursday 9 – 11am if it would be helpful to discuss this in a call.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
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From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>
Sent: Tuesday, July 23, 2024 10:43 AM
To: Hilary Harris Klein <hilaryhklein@scsj.org>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrissshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
Cc: Jordan Koonts <jordan.koonts@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com
Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

We granted courtesy extensions to Representatives Reives and Harrison on their document productions, and have not yet received any materials from them. Once we receive those materials, they will be sent to all counsel pursuant to Fed. R. Civ. P. 45. I have also not had the September 18 date confirmed by Rep. Harrison's counsel. However, there has not yet been an objection to the date, so we are proceeding as though it is confirmed. If we hear differently, we will let you know.

We are awaiting confirmation from the *Pierce* Plaintiffs as to their position on a joint deposition for Senator Hise. Once we hear back from them, we will be in a position to propose dates for those depositions. We followed up with them this week on that, and we are hopeful that we will have resolution on that issue this week.

We are diligently working on the document production for the three agreed upon custodians. If you prefer to have a rolling production, we could get the first set out around the first of August. If you would prefer a single production, it will likely be later in August.

As to the custodians, 12 is an unreasonable number. The list Legislative Defendants' proposed below called for each legislator (and a corresponding staff member) to be a custodian. That's more than reasonable and proportional to the needs of the case. Additional custodians are not. Moreover, case law is clear that a person's job title is immaterial to whether communications are governed by the attorney-client privilege. The question is whether the communications in question seek or relay legal advice. Mr. Fork and Mr. Inman are routinely solicited for and give legal advice despite their titles of Chief of Staff. It is also common knowledge, and common practice, for the chief of staff to also give legal advice. For example, Representative Reives is represented by his chief of staff, attorney Todd Barlow.

It is true that communications with third parties are not privileged, but as we learned in the SB 747 case, and as articulated in the meet and confer on the 10th, there is not a good way to limit the document review to emails only containing third party emails. This means that all emails have to be reviewed. While this is onerous in itself, the burden is compounded when you are dealing with an attorney who is routinely solicited for legal advice. For example, the Legislature receives numerous public records requests. The root email might be public, responsive, and non-privileged. But, when it gets forwarded to legal counsel for advice the remainder of the chain then has to be redacted and logged. This requires additional significant time and expense. Additionally having already begun to go through Senator Hise's emails some of the overlapping terms requested, are already hitting on a significant number of non-responsive budget items. Given Mr. Fork and Mr. Inman's significant involvement in the budget, we believe this issue is likely to repeat itself.

Best,
Alyssa

<image004.jpg>

ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Friday, July 19, 2024 10:03 AM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton

<chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
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Subject: Re: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

I am writing to follow up on your below inquiry from July 10 regarding third-party search terms, and also confirm our understanding of items discussed in last week's meet and confer with my colleagues (and discussed in the parallel chain "LD Discovery Responses").

Regarding third-party search terms: Your counter-proposal on third-party custodians is acceptable with the exception of taking out Brian Fork and Neal Inman. Your assertions these individuals act as attorneys providing legal advice is inconsistent with their titles as Chiefs of Staff to leadership, and their roles as policy advisors make them particularly relevant custodians whose third-party communications you agree would not be privileged. For us to productively confer on these custodians, can you please articulate in more detail on what basis you believe they are not appropriate custodians, how their work could be subject to blanket privilege, or why a search would be burdensome to collect?

We understand you will be proposing dates for the Springhetti and Hise depositions, and you are currently running the agreed-upon search terms on the three custodians. Do you have an anticipated timeline for those productions?

Lastly, we wanted to inquire about any updates with regard to the notice of subpoenas issued on June 20 to Rep. Reives and Rep. Harrison – have you received any documents, and is the Harrison deposition proceeding on September 18 as noticed?

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.instagram.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>
Sent: Thursday, July 11, 2024 5:02:14 PM
To: Jyoti Jasrasaria <jjasrasaria@elias.law>; Cassie Holt
<cassie.holt@nelsonmullins.com>; Hilary Harris Klein <hilaryhklein@scsj.org>; Steed,
Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris
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<corey.leggett@hoganlovells.com>; Gbe, Harmony A.
<harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth,
Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom
<tom.boer@hoganlovells.com>; Bech, Madeleine R.
<madeleine.bech@hoganlovells.com>; Howell, Misty
<misty.howell@hoganlovells.com>; Durojaye, Odunayo
<odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia
<olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark
Haidar <mhaidar@elias.law>; nghosh@pathlaw.com <nghosh@pathlaw.com>
Cc: Alex Bradley <alex.bradley@nelsonmullins.com>; Phil Strach
<phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>;
McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard
<rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>;
tstanley@bakerlaw.com <tstanley@bakerlaw.com>
Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No.
23cv1104)

Jyoti,

Legislative Defendants are fine with the redlines circulated yesterday. You have our
permission to get this on file at your convenience after approval from the NCSBE
Defendants.

Best,
Alyssa

<image004.jpg>

ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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From: Jyoti Jasrasaria <jjasrasaria@elias.law>

Sent: Wednesday, July 10, 2024 6:04 PM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Cassie Holt <cassie.holt@nelsonmullins.com>; Hilary Harris Klein <hilaryhklein@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrissenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Alyssa,

Thank you for the productive conversation and for sending along the below counter proposal regarding custodians. We will consider and get back to you soon.

In the meantime, attached are additional redlines to the protective order per today's meet and confer. Please let us know if you have any questions or further edits.

Best,
Jyoti

Jyoti Jasrasaria

Elias Law Group LLP

202-968-4552

(she/her/hers)

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From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>

Sent: Wednesday, July 10, 2024 5:38 PM

To: Jyoti Jasrasaria <jjasrasaria@elias.law>; Cassie Holt <cassie.holt@nelsonmullins.com>; Hilary Harris Klein <hilaryhklein@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com

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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

All,

Thank you for a productive meet and confer.

We now understand that Plaintiffs are not seeking several dozen custodians, but are instead seeking the 14 custodians below for searches for third-party communications from legislators asserting privilege. In light of this understanding after our call, we make the following counter proposal:

1. State Senator Philip Berger, President Pro Tempore of the North Carolina Senate
2. Brian Fork, Chief of Staff for the Office of the President Pro Tem, North Carolina Senate
3. State Representative Timothy Moore, Speaker of the North Carolina House of Representatives
4. Neal Inman, Chief of Staff for Speaker Moore

5. Dan Gurley, Deputy Chief of Staff for Speaker Moore
6. State Representative Destin Hall, Chair of the House Redistricting Committee
7. Kari Nadler, Representative Hall's Legislative Assistant
8. ~~Representative Sarah Stevens, co-sponsor of H898~~
9. ~~Representative Jason Saine, co-sponsor of H898~~
10. State Senator Warren Daniel, Co-Chair of the Senate Redistricting and Elections Committee
11. Andy Perrigo, Senator Daniel's Legislative Assistant
12. ~~State Senator Ralph Hise, Co-Chair of the Senate Redistricting and Elections Committee (covered by Separate Agreement)~~
13. ~~Susan Fanning, Senator Hise's Legislative Assistant (Covered by Separate Agreement)~~
14. State Senator Paul Newton, Co-Chair of the Senate Redistricting and Elections Committee and a Defendant
15. Lori Byrd, Senator Newton's Legislative Assistant
16. Brent Woodcox, Senior Policy Counsel, North Carolina General Assembly

This strikes Senator Hise and Ms. Fanning since they are covered by separate agreement along with Mr. Springhetti. Additionally, we've struck Representatives Stevens and Saine. These individuals are neither defendants nor staff of defendants, and we believe they are not appropriate custodians. We also struck Brian Fork and Neal Inman. As discussed, these individuals are attorneys who provide legal advice to Senator Berger and Speaker Moore, respectively. It will be extremely onerous to search their communications and log those that are covered by the attorney client privilege. As we mentioned, it is extremely expensive just to collect these files and process them for searching. We think this list of 10 is appropriate and proportional to the needs of the case. It covers each legislative defendant, and a staff member, and is in addition to the three custodians already agreed upon. If Plaintiffs agree to these legislative custodians we will proceed to collect the files and run the proposed search terms. If there are issues with the search terms we can negotiate from there and hopefully reach agreement as we did with Senator Hise, Ms. Fanning, and Mr. Springhetti.

<image004.jpg>

ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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From: Jyoti Jasrasaria <jjasrasaria@elias.law>
Sent: Wednesday, July 10, 2024 2:29 PM
To: Cassie Holt <cassie.holt@nelsonmullins.com>; Hilary Harris Klein <hilaryhklein@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrissshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
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Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Cassie,

Williams and NAACP Plaintiffs' counsel have reviewed your proposed edits to the protective order. We've accepted them and made some additional redlines in the privilege log section for your review. We're happy to discuss during this afternoon's meet and confer.

Best,
Jyoti

Jyoti Jasrasaria
Elias Law Group LLP
202-968-4552
(she/her/hers)

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Sent: Monday, July 8, 2024 1:45 PM
To: Hilary Harris Klein <hilaryhklein@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton

<chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
Cc: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Alex Bradley <alex.bradley@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rRaile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Hilary,

My apologies, thank you for doing the compare change. Attached is my second attempt. There are a few comments in the attached explaining some of the redlines that may be helpful in your review.

Best,

Cassie

<image004.jpg>

CASSIE A. HOLT **ASSOCIATE**

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

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From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Monday, July 8, 2024 1:35 PM

To: Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe,

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<odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia
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Haider <mhaider@elias.law>; ngghosh@pathlaw.com
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tstanley@bakerlaw.com
Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No.
23cv1104)

Cassie,

Thank you for this. I am not sure if others had this issue, but I was not able to see any track changes or comments in the draft you sent over. Attached is a redline I did by comparing what you sent back to what we sent you, which we will look at and respond to.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.facebook.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Cassie Holt <cassie.holt@nelsonmullins.com>

Sent: Monday, July 8, 2024 12:21 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Steed, Terence <Tsteed@ncdoj.gov>;
Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton
<chrishshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe,

Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido
<jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>;
Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R.
<madeleine.bech@hoganlovells.com>; Howell, Misty
<misty.howell@hoganlovells.com>; Durojaye, Odunayo
<odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia
<olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark
Haidar <mhaidar@elias.law>; nghosh@pathlaw.com
Cc: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria
<jjasrasaria@elias.law>; Alex Bradley <alex.bradley@nelsonmullins.com>; Phil Strach
<phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>;
McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard
<[rraile@bakerlaw.com](mailto:raille@bakerlaw.com)>; Lewis, Patrick T. <plewis@bakerlaw.com>;
tstanley@bakerlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Counsel,

Attached please find Legislative Defendants' redlines to Plaintiffs' Proposed Stipulated Protective Order.

We are diligently working on responses to Plaintiffs' similar discovery letters, and aim to have responses to you ahead of our call set for Wednesday (7/10) at 4pm EST.

Thank you,

Cassie

<image004.jpg>

CASSIE A. HOLT ASSOCIATE

cassie.holt@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3886 F 919.329.3799

NELSONMULLINS.COM [VCARD](#) [VIEW BIO](#)

From: Hilary Harris Klein <hilaryhklein@scsj.org>

Sent: Wednesday, June 26, 2024 2:16 PM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Cassie Holt
<cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Jyoti

Jasrasaria <jjasrasaria@elias.law>; Alex Bradley <alex.bradley@nelsonmullins.com>;
Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin
<eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile,
Richard <[rraile@bakerlaw.com](mailto:raille@bakerlaw.com)>; Lewis, Patrick T. <plewis@bakerlaw.com>;
tstanley@bakerlaw.com; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris
Shenton <chrishshenton@scsj.org>; Leggett, Corey T.
<corey.leggett@hoganlovells.com>; Gbe, Harmony A.
<harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth,
Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom
<tom.boer@hoganlovells.com>; Bech, Madeleine R.
<madeleine.bech@hoganlovells.com>; Howell, Misty
<misty.howell@hoganlovells.com>; Durojaye, Odunayo
<odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia
<olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark
Haidar <mhaidar@elias.law>; nghosh@pathlaw.com

Subject: RE: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Counsel,

Please find attached a proposed stipulated protective order governing the production of documents and information in this matter, agreed upon by the consolidated Plaintiffs. We seek Defendants' agreement in jointly proposing this to the Court, and are happy to arrange a time to discuss if needed.

NC NAACP Plaintiffs would like to get this on file before NC NAACP Plaintiffs make any productions in this matter.

Kind regards,

Hilary

Hilary Harris Klein
Pronouns: She, Her, Hers

Senior Counsel for Voting Rights
Southern Coalition for Social Justice
P.O. Box 51280, Durham, NC 27717
hilaryhklein@scsj.org
scsj.org | [@scsj](https://www.instagram.com/scsj) | FB: [@southerncoalition](https://www.facebook.com/southerncoalition)
(Admitted in NC and NY)

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From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>

Sent: Tuesday, June 11, 2024 4:47 PM

To: Hilary Harris Klein <hilaryhklein@scsj.org>; Cassie Holt <cassie.holt@nelsonmullins.com>; Steed, Terence <Tsteed@ncdoj.gov>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Alex Bradley <alex.bradley@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Prouty, Erika Dackin <eprouthy@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; tstanley@bakerlaw.com; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Chris Shenton <chrisshenton@scsj.org>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Jeff Loperfido <jeffloperfido@scsj.org>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Bech, Madeleine R. <madeleine.bech@hoganlovells.com>; Howell, Misty <misty.howell@hoganlovells.com>; Durojaye, Odunayo <odunayo.durojaye@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Abha Khanna <akhanna@elias.law>; Mark Haidar <mhaidar@elias.law>; nghosh@pathlaw.com

Subject: [External]Williams v. Hall (No. 23cv1057) and NAACP v. Berger (No. 23cv1104)

Dear Counsel,

Please find attached Legislative Defendants first set of discovery to Williams and NAACP Plaintiffs.

Best,
Alyssa

<image004.jpg>

ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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EXHIBIT F

Maxwell Declaration

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.,

Defendants.

NORTH CAROLINA STATE CONFERENCE OF
THE NAACP, et al.,

Plaintiffs,

v.

PHILIP BERGER, in his official capacity as the
President Pro Tempore of the North Carolina
Senate, et al.,

Defendants.

Civil Action No. 23 CV 1104

September 23, 2024

I, Deborah Dicks Maxwell, swear under penalty of perjury that the following information is true to the best of my knowledge and state as follows:

1. I am a resident of Wilmington, North Carolina in New Hanover county, where I have lived since 1992. I was born in Wilmington and previously resided there for approximately 15 years.
2. Since October 2021, I have served as President of the North Carolina State Conference of the National Association for the Advancement of Colored People (“North Carolina NAACP”), a state chapter of the National NAACP, which is a 501(c)(4) registered nonpartisan, nonprofit community organization dedicated to eliminating racial hatred and racial discrimination through education, advocacy, and litigation.
3. I have been a member of the NAACP for 25 years. Prior to my time as President, I served as Assistant Treasurer, Treasurer, Vice President, and President for the New Hanover County local branch of the North Carolina NAACP. I also served as the North Carolina State Conference District Director for Bladen, Brunswick, Columbus, New Hanover, Onslow and Pender Counties, which required me to oversee six counties in southeastern North Carolina.
4. As President of the North Carolina NAACP, I am responsible for communicating with NAACP branches across North Carolina, identifying matters of statewide concern, and taking steps to address members’ concerns. This can include, among other things, traveling to various parts of North Carolina for meetings and events, communicating statewide concerns to the National NAACP, advocating for or against proposed legislation or policies, making statewide programmatic decisions, and acting as a spokesperson for the North Carolina NAACP at public and private engagements.
5. I am personally knowledgeable of the facts contained herein.
6. I am authorized to speak for the NAACP in this matter.

NAACP Background

7. The mission of the NAACP is to eliminate racial hatred and racial discrimination. The North Carolina NAACP follows the national NAACP mission statement in focusing on political, educational, and other rights affecting all people and people of color. The national mission statement identifies the NAACP’s mission: “[T]o achieve equity, political rights, and social inclusion by advancing policies and practices that expand human and civil rights, eliminate discrimination, and accelerate the well-being, education, and economic security of Black people and all persons of color.”¹
8. The North Carolina NAACP engages in a wide variety of educational, advocacy, and legal work to ensure that communities of color and other marginalized communities throughout North Carolina are able to exercise the right to vote. This includes voter

¹See <https://ncnaACP.org/mission-vision/>.

registration, election protection, and voter mobilization events hosted by branches of the state conference. In addition, the North Carolina NAACP conducts voter education events and educational campaigns intended to inform voters about the requirements to register and vote, as well as any legal changes that might affect how, where, or when they are able to vote. This work is achieved through engagement with our members, who volunteer and organize events held both statewide and by local branches.

9. The North Carolina NAACP closely tracks every statewide redistricting process and engages in advocacy and legal efforts to prevent Black North Carolinians' votes from being diluted. Protecting our members and constituents, and Black voters generally, from vote dilution and being forced to vote under discriminatory voting plans is central to achieving our core missions and ensuring that Black voters have the opportunity to elect candidates of their choice. We carefully tracked the 2023 redistricting process, including the public hearings in September of 2023 and the legislative process in October of 2023.

North Carolina NAACP Membership

10. National NAACP membership compliance standards require a NAACP state conference to have six adult branches and six youth branches.² The North Carolina NAACP has 70 adult branches and numerous students and youth branches, composed of well over 10,000 members.
11. To become a member of a branch of the North Carolina NAACP, an individual must sign a form affirming that they live or work in the county in which they wish to join a chapter and agree to pay dues. Lifetime membership is maintained with a one-time payment of dues. To maintain yearly membership with the North Carolina NAACP, members must pay yearly dues in the amount of thirty dollars for adults and ten dollars for youth.
12. North Carolina NAACP membership is predominately Black and other minority individuals and includes registered voters who reside throughout the state.
13. NAACP membership lists and information are very protected from public disclosure. For example, access to membership lists and other information is strictly regulated and limited even within the NAACP. This is due to privacy concerns and the risk of retaliation against members following a longstanding history of loss of life and livelihood as retaliation for civil rights activism in the South. This retaliation has included death threats and the bombing of a former North Carolina NAACP President's home.³ That membership lists and information remain confidential within the organization is crucial to the NAACP's ability to protect its members from retaliation harassment, and to maintain its membership and also recruit members in the future. I am aware of current members that would fear they are personally at risk if their membership in the NAACP were

² See

<https://naacp.org/convention/faqs#:~:text=Financial%20compliance%20consists%20of%20submitting%20the%20Annual%20Financial%20Report%20and,does%20ACT%2DSO%20stand%20for?>

³ See <https://ncnaacp.org/history/>.

publicly disclosed without their consent or knowledge. The NAACP has a long tradition of not disclosing, and of safeguarding, membership information to protect our members.

14. I believe if the North Carolina NAACP were forced to disclose its North Carolina membership information, this would have a severe adverse impact on its ability to maintain current members and recruit new members in the future. Because the work to achieve our core missions is largely carried out through our members, this in turn would severely diminish our ability to carry out those activities central to our objectives and mission.
15. The North Carolina NAACP has brought this lawsuit on behalf of its members, both because achieving constitutional and lawful voting plans is central to our mission and would benefit those members directly, and also because participating in this lawsuit is too burdensome for many of the NAACP members who are harmed by discriminatory voting plans. I have worked with my leadership team and, with the assistance of counsel, confirmed that we have at least one member of the North Carolina NAACP who is a registered voter that self-identifies as Black or African American residing in the impacted areas we are challenging in this lawsuit, and specifically at least 2023 Senate Plan districts 1, 2, 8 & 41; 2023 House Plan districts 5, 8, 9, 10, 12, 23, 24, 25, 27, 32, 37 & 71; and 2023 Congressional Plan districts 1, 3, 5, 6 & 10. This includes members who identify as Black or African American and are registered voters in the following counties: Vance County; Warren County; Halifax County; Northampton County; Hertford County; Gates County; Pasquotank County; Bertie County; Nash County; Wilson County; Edgecombe County; Martin County; Pitt County; Greene County; Lenoir County; Wayne County; New Hanover County; Mecklenburg County; Wake County; and Forsyth County.
16. These areas are far from the only areas in which we have members in North Carolina. If needed to maintain standing in this lawsuit, I could work to identify members living in additional areas of the state who are registered voters and self-identify as Black or African American.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on: September 23, 2024.


Deborah Dicks Maxwell

EXHIBIT G

Legislative Defendants' September 27, 2024 Discovery Letter

BakerHostetler

Baker&Hostetler LLP

Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5403

T 202.861.1500
F 202.861.1783
www.bakerlaw.com

Katherine L. McKnight
direct dial: 202.861.1618
kmcknight@bakerlaw.com

September 27, 2024

VIA E-MAIL (HILARYHKLEIN@SCSJ.ORG)

Hilary Harris Klein
Southern Coalition for Social Justice
PO Box 51280
Durham, NC 27717

*Re: NAACP Plaintiffs' Responses and Objections to Legislative Defendants' First Sets of
Discovery in Williams v. Hall, M.D.NC. No. 23-CV-1057 & NC NAACP v. Berger, No.
23-CV-1104 (consolidated)*

Counsel,

Thank you for your time yesterday to meet and confer regarding Organizational Plaintiffs' assertion of the First Amendment privilege in response to Legislative Defendants' discovery requests. This letter confirms our position.

Organizational Plaintiffs rely on representational standing to make their claims in this case and have expressed their intent to assert standing of individual members to establish representational standing. *See* NAACP Plaintiffs' Response to Interrogatory No. 4. Legislative Defendants seek discovery from those members (the "Standing Members") in order to assess each member's standing for the claims asserted and the relief sought.¹ Organizational Plaintiffs assert privilege against production of this information. We understand from recent correspondence and our meet and confer that Organizational Plaintiffs are wavering on that assertion, or otherwise intend to introduce this information, in whole or in part, "if necessary" at some later unknown time.

As discussed during our meet and confer, Legislative Defendants are willing to extend the due date for a complete answer to Interrogatory No. 4 to **Friday, October 4, 2024**. Production by this date should allow Legislative Defendants the time necessary to notice and conduct depositions of the Standing Members by the November 4, 2024, discovery completion date and to prepare any Rule

¹ Legislative Defendants have never sought Organizational Plaintiffs' entire membership lists, or the names of any members other than those whose standing Organizational Plaintiffs assert in this case.

56 motions by the December 6, 2024, deadline. *See* ECF No. 47 at 5.² Disclosure after that date will prejudice Legislative Defendants in their defense of this case. If we do not receive a complete answer to Interrogatory No. 4 by October 4, we will understand that Organizational Plaintiffs are resting on their privilege assertion. Because untimely or selective disclosure of information is impermissible and will work severe prejudice, Legislative Defendants will object to the introduction or use at any time of any information responsive to Interrogatory No. 4 in the absence of a complete, unqualified, and timely response to Interrogatory No. 4.

Sincerely,

A handwritten signature in brown ink that reads "Kate M.K.L." in a cursive, slightly stylized font.

Katherine L. McKnight

² Plaintiffs' counsel suggested during the meet and confer that depositions could be conducted after the November 4, 2024, discovery completion date. Legislative Defendants must have the ability to conduct these depositions well in advance of the December 6 deadline for Rule 56 motions, and the court has made clear that a later briefing schedule would not be workable. *See* May 1, 2024, Text Order (requiring revised case schedule to be submitted that allowed for summary judgment briefing to be completed "at least 150 days" before trial).

EXHIBIT H

Second Maxwell Declaration

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.,

Defendants.

Civil Action No. 23 CV 1057

NORTH CAROLINA STATE CONFERENCE OF
THE NAACP, et al.,

Plaintiffs,

v.

PHILIP BERGER, in his official capacity as the
President Pro Tempore of the North Carolina
Senate, et al.,

Defendants.

Civil Action No. 23 CV 1104

**SECOND AFFIDAVIT OF DEBORAH DICKS MAXWELL
PRESIDENT OF THE NORTH CAROLINA STATE CONFERENCE
OF THE NAACP**

October 2, 2024

I, Deborah Dicks Maxwell, swear under penalty of perjury that the following information is true to the best of my knowledge and state as follows:

1. I previously provided a declaration on September 23, 2024 in this matter.
2. Since providing that declaration, I have been made aware that Legislative Defendants have expressed an intent to depose any members that we identify to them as living in challenged areas of the state and who we have not otherwise disclosed as possible witnesses in this matter. I am unaware of this ever occurring in any of our legal challenges in North Carolina, and I am certain it will have a negative adverse impact on people's willingness to affiliate with the North Carolina NAACP.
3. Our membership includes individuals who are already marginalized within their communities, and who have experienced adverse treatment because of their race. For example, in 2022, prominent members of the North Carolina NAACP were targeted in a racially-motivated arson in their family homes, which local law enforcement failed to fully investigate.¹ One of our largest and most active local branches, Raleigh-Apex, has recently received threatening phone calls. Past North Carolina State Conference presidents have received death threats. Based on these and other experiences, I believe specific members whose identities are exposed could face significant criticism risk for being associated with a social justice civil rights organization. This is precisely why we so closely protect our membership information, especially with the polarization in the current political climate. The North Carolina NAACP exists to promote the interest of its members in a manner that will protect those members from risk of retaliation.
4. Our membership are all volunteers and includes many individuals who are low-income and work full time. Being deposed would likely put a severe burden on them from a time and financial perspective, and the experience of being deposed would very likely be seen as harassment and an intent to dissuade them from continuing their affiliation with the North Carolina NAACP. If such depositions were required, I am certain it would decrease membership in our organization and, for the reasons I stated in my first declaration, would have a severe impact on our ability to meet our organizational goals.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on: October 2, 2024.


Deborah Dicks Maxwell

¹ <https://www.theroot.com/black-nc-family-targeted-in-two-racially-motivated-arso-1849036278> (last accessed October 2, 2024).

EXHIBIT I

Phillips Declaration

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

**REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House Standing
Committee on Redistricting, et al.,**

Defendants.

Civil Action No. 23 CV 1057

**NORTH CAROLINA STATE CONFERENCE OF
THE NAACP, et al.,**

Plaintiffs,

v.

**PHILIP BERGER, in his official capacity as the
President Pro Tempore of the North Carolina
Senate, et al.,**

Defendants.

Civil Action No. 23 CV 1104

**AFFIDAVIT OF ROBERT PHILLIPS
EXECUTIVE DIRECTOR OF COMMON CAUSE NORTH CAROLINA**

I, Robert “Bob” Phillips, swear under penalty of perjury that the following information is true to the best of my knowledge and state as follows:

1. I am a resident of Wake County, where I have lived since 1981. I am a native of Charlotte, North Carolina and have lived in the Triangle area for more than 48 years.
2. Since 2001, I have served as Executive Director of Common Cause North Carolina (“CCNC”), a state chapter of National Common Cause (“Common Cause”), which is a 501(c)(4) registered nonpartisan, nonprofit grassroots organization dedicated to upholding the core values of American democracy. Before becoming Executive Director of CCNC, I was hired as a full-time consultant to manage CCNC’s 501(c)(3) grant awarded for nonpartisan public outreach and education on pro-democracy reforms. Prior to joining Common Cause, I worked as a local television journalist and Communications Director for the Office of Lieutenant Governor.
3. As Executive Director of CCNC, I manage a diverse staff of sixteen people who work in the Triangle, Triad, Charlotte, Sandhills, and Northeast regions. I help design and implement policy and program priorities for Common Cause NC. I represent CCNC before the public, the media, decisionmakers, and donors. I am also a registered lobbyist for Common Cause at the North Carolina General Assembly, and have worked with lawmakers on both sides of the aisle on matters related to redistricting reform.
4. I am authorized to speak for Common Cause in this case.
5. Since its founding in 1970, Common Cause has been dedicated to fair elections and making government at all levels more representative, open, and responsive to the interests of ordinary people. Common Cause regularly assists voters in understanding and navigating the election process, provides resources to help voters determine their districts and polling locations, and mobilizes voters to engage in political advocacy.
6. Common Cause has been one of the leading proponents of redistricting reform, conducting public education, advocacy, legislative lobbying, and participating in litigation in order to secure fair maps for all North Carolinians. This includes seeking to protect the interests of members to vote under lawful and constitutional voting plans that do not deny them equal voting power or deny them an equal opportunity to elect

candidates of their choice, or otherwise dilute their vote, sort, or discriminate them, on account of race.

7. These efforts are germane to Common Cause's mission around fair elections and encouraging a more representative, open, and responsive government. As part of that mission, Common Cause has educated members and the public about the redistricting process, including how to participate, monitor, and hold decision-makers accountable. Common Cause has researched state redistricting practices to identify best practices for creating a legal, transparent, responsive, and equitable redistricting process. It also assists voters in navigating the elections process, provides resources to help voters determine their districts and polling places, and mobilizes voters to engage in advocacy for government accountability. Voting maps that diminish voting power of specific racial groups, or that gerrymander along racial lines, directly impede our mission of ensuring every vote is afforded equal value in the state, and that all North Carolinians have responsive and accountable government regardless of their racial identity.
8. As part of my Executive Director responsibilities, I work with our national office and supervise my team in North Carolina, to oversee the maintenance of CCNC's statewide membership, supporter, and staff lists, records and information. Common Cause currently has over 25,000 members, staff, and supporters in North Carolina.
9. Based on my review of the Common Cause member database and of publicly available information in the North Carolina voter registration database, I am personally aware that we have members who have self-identified as Black or African American who are currently registered to vote in the state in at least the following counties as of July 2024:
 - a. Edgecombe County;
 - b. Forsyth County;
 - c. Franklin County;
 - d. Guilford County;
 - e. Lenoir County;
 - f. Martin County;

- g. Mecklenburg County;
- h. Pasquotank County;
- i. Pitt County;
- j. Vance County;
- k. Wayne County; and
- l. Wake County.

10. These include members with the same qualifications who are in at least the following areas as of July 2024:

- a. 2023 Senate Plan districts 1, 3 & 40;
- b. 2023 House Plan districts 5, 7, 8, 9, 10, 12, 23, 32, 37 & 71; and
- c. 2023 Congressional Plan districts 1 & 5.

11. These are far from the only areas in which Common Cause has members. I am able to use the same methods to identify members living in additional districts or areas of the state who are registered voters and identify as Black or African American if that becomes required to maintain standing in this lawsuit.

12. In order to be an active member of Common Cause, an individual must have donated financially to the organization and/or taken an action with Common Cause in the last two years. Actions can include, but are not limited to, participating in a community event with Common Cause, volunteering as a Common Cause election observer, or advocating for a policy in support of Common Cause goals with an elected representative as part of an advocacy campaign.

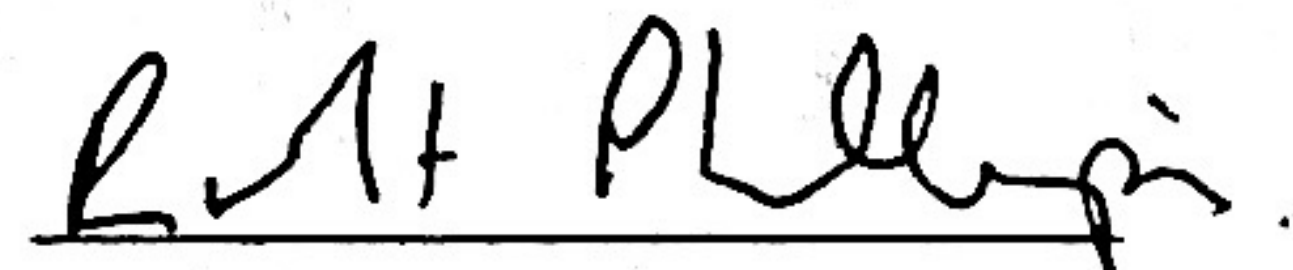
13. Common Cause historically keeps its membership list and member information confidential. Due to privacy concerns, and the risk of retaliation, Common Cause is reticent to reveal the name and addresses of our members. I believe that the specific identification of our members would place their safety and privacy in jeopardy. In the current political climate, private individuals are finding themselves increasingly vulnerable to public attacks, conflicts, and doxing. As a result, community members have experienced a chilling effect on their desire and capacity to be publicly affiliated with

even nonpartisan organizations that engage in civic issues. Individual members have expressed a fear of the impact that public identification would have on their livelihood.

14. I was also made aware that Legislative Defendants have expressed an intent to depose any members that we identify to them. I believe this would deter many individuals from joining Common Cause and cause current members to leave the organization. Common Cause exists to allow individuals to support advocacy for better government without having to expose themselves to the burdens of litigation or to risk retaliation and intimidation when we challenge the actions of those in power in government. But if individuals believed that, by becoming members, they were automatically exposing themselves to the risk of being deposed and publicly identified, I believe (based on more than two decades of experience working with Common Cause members) that it would impose an insurmountable barrier to participation in our organization for individuals who otherwise care deeply about our organizational objectives and wish to privately engage and support them. The impact of that on our organization would be severe.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed on: 10-2-24

A handwritten signature in black ink, appearing to read "Robert Phillips", written over a horizontal line.

Robert Phillips

EXHIBIT J

Example Voter File

[New Search](#)

[REDACTED]
[REDACTED] [REDACTED]
NORLINA, NC 27563

[Collapse all sections](#) | [Expand all sections](#)**YOUR VOTER DETAILS** ^

County:	WARREN
Status:	ACTIVE
Voter Reg Num:	[REDACTED]
NCID:	[REDACTED]
Party:	DEM
Race:	BLACK or AFRICAN AMERICAN
Ethnicity:	NOT HISPANIC or NOT LATINO
Gender:	MALE
Registration Date:	05/14/1982
NCDMV Customer:	Yes

YOUR JURISDICTIONS ^

Precinct:	SANDY CREEK
Congress:	CONGRESSIONAL DISTRICT 1
NC Senate:	NC SENATE DISTRICT 2
NC House:	NC HOUSE DISTRICT 27
Superior Court:	SUPERIOR COURT DISTRICT 11
Judicial:	JUDICIAL DISTRICT 11B
Prosecutorial:	PROSECUTORIAL DISTRICT 11
County Commissioner:	COMMISSION #4
School:	SCHOOL #4

YOUR VOTING LOCATIONS ^

During the early voting period, voters may cast a ballot at any early voting site in their county, and eligible individuals may register and vote at the same time. Find early voting sites and schedules in your county with the [Early Voting Site Search](#). *Voting sites change for each election and become available when finalized.*

Election Day voters must cast a ballot at their assigned polling place. Click the name of your Election Day polling place below for location details, your county board of elections contact information, and sample ballots *when available*.

AFTON-ELBRON FIRE DEPT
2350 US HIGHWAY 401 S
WARRENTON, NC 27589

YOUR SAMPLE BALLOT (1)



If this section is blank, you do not have any upcoming elections in your jurisdiction for the current year.

"Ballots not assigned yet" means a sample ballot is not yet available. Return to this site closer to the election date to view your sample ballot(s).

Practice making your selections with the accessible sample ballot by choosing "Option 4" on the [absentee ballot portal](#).

Election	Your Sample Ballot(s)
11/05/2024 GENERAL	<u>B0006</u>

YOUR BALLOT: BY MAIL OR EARLY VOTING (1)



If there is no ballot information in this section, we do not have a record that you returned an absentee ballot by mail or that you have voted in-person at an early voting site for the current election.

Note for absentee ballots:

County boards of elections will post ballot acceptance information, but ballot requests are no longer public record until the ballot is returned, or until Election Day, whichever is earlier. If you have not received your ballot within two weeks of your request, contact your [county board of elections](#).

To track your absentee-by-mail ballot from request to acceptance by your county board of elections, sign up for status notifications through [BallotTrax](#).

<u>Election Date</u>	<u>County</u>	<u>Voting Method</u>	<u>Return/... Date</u>	<u>ABS Return Method</u>	<u>Ballot Status</u>	<u>Vote Status</u>
03/05/2...	WARREN	EARLY VOTING	03/02/2024		VALID RETURN	ACCEPTED

YOUR VOTER HISTORY (29)



If this section is blank, we do not have a record that you voted in a past election in North Carolina.

<u>Election</u>	<u>Voted Method</u>	<u>Voted County</u>	<u>Primary Election Ballot</u>
03/05/2024 PRIMARY	EARLY VOTING IN-PERSON	WARREN	DEMOCRATIC
11/08/2022 GENERAL	EARLY VOTING	WARREN	
05/17/2022 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/03/2020 GENERAL	EARLY VOTING	WARREN	
03/03/2020 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/06/2018 GENERAL	EARLY VOTING	WARREN	
05/08/2018 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/08/2016 GENERAL	EARLY VOTING	WARREN	
06/07/2016 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
03/15/2016 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/04/2014 GENERAL	EARLY VOTING	WARREN	
05/06/2014 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/06/2012 GENERAL	EARLY VOTING	WARREN	
07/17/2012 SECOND PRIMARY	IN-PERSON ELECTION DAY	WARREN	DEMOCRATIC
05/08/2012 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/02/2010 GENERAL	EARLY VOTING	WARREN	
05/04/2010 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/04/2008 GENERAL	EARLY VOTING	WARREN	
05/06/2008 PRIMARY	EARLY VOTING	WARREN	DEMOCRATIC
11/07/2006 GENERAL	EARLY VOTING	WARREN	
05/30/2006 SECOND PRIMARY	IN-PERSON ELECTION DAY	WARREN	DEMOCRATIC
05/02/2006 PRIMARY	IN-PERSON ELECTION DAY	WARREN	DEMOCRATIC
11/02/2004 GENERAL	IN-PERSON ELECTION DAY	WARREN	
08/17/2004 SECOND PRIMARY	IN-PERSON ELECTION DAY	WARREN	DEMOCRATIC
07/20/2004 PRIMARY	ABSENTEE	WARREN	DEMOCRATIC
11/05/2002 GENERAL	IN-PERSON ELECTION DAY	WARREN	
09/10/2002 PRIMARY	ABSENTEE	WARREN	DEMOCRATIC
11/07/2000 GENERAL	IN-PERSON ELECTION DAY	WARREN	

Election

Voted Method

Voted County

Primary Election Ballot

05/02/2000 PRIMARY

IN-PERSON ELECTION
DAY

WARREN

DEMOCRATIC

For more information, please contact the [Warren County Board of Elections](#).

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