

**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

**THIRD DECLARATION OF HILARY HARRIS KLEIN
IN SUPPORT OF NAACP PLAINTIFFS MOTION FOR A PROTECTIVE ORDER**

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. A true and correct copy of excerpts of the October 18, 2024, Rule 30(b)(6) deposition of Plaintiff Common Cause is appended to this Declaration as **Exhibit A**. Plaintiff Common Cause has reserved the right to read and sign the declaration, but the substance of the testimony cited in NAACP Plaintiffs Rely in Support of a Protective Order is accurate to the best of my knowledge.

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

Executed on October 23, 2024.

/s/ Hilary Harris Klein
Hilary Harris Klein

CERTIFICATE OF SERVICE

I certify that on October 23, 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

Excerpts of October 18, 2024, Rule 30(b)(6)
Deposition of Common Cause NC
Executive Director Bob Phillips

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

3 * * *

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5 SHAUNA WILLIAMS; et al.,
6 Plaintiffs,

7
8 vs. CIVIL ACTION NO. 23-CV-1057

9 REPRESENTATIVE DESTIN HALL, in
10 his Official Capacity as Chair
11 of the House Standing Committee
12 on Redistricting; et al.,

13 Defendant.

14 * * *

15 NORTH CAROLINA STATE CONFERENCE OF
16 THE NAACP; et al.,
17 Plaintiffs,

18 vs. CIVIL ACTION NO. 23-CV-1104

19 PHILIP BERGER, in his official
20 capacity as the President Pro
21 Tempore of the North Carolina
22 Senate; et al.,

23 Defendants.

24 REMOTE 30(b)(6) DEPOSITION OF BOB PHILLIPS
25 OCTOBER 18, 2024

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Remote 30(b)(6) Deposition of
BOB PHILLIPS, a witness herein, called by the
Legislative Defendants for examination pursuant
to the Rules of Civil Procedure, taken before
me, Patti Stachler, RMR, CRR, a Notary Public
within and for the State of Ohio, at the office
of Southern Coalition for Social Justice,
Durham, North Carolina, on October 18, 2024, at
9:38 a.m.

* * *

1 know that Common Cause was filing the lawsuit?

2 A. Advising them about what was going
3 on, what we were looking at. It was more of a
4 process of absorbing the maps that had been
5 produced, thinking about what options we might
6 have, talking over the possibilities of
7 litigation, that kind of thing.

8 Q. But ultimately you did not need
9 their authorization to file this complaint?

10 A. No.

11 Q. Okay. And beyond the advisory
12 board, did you speak with any other members of
13 Common Cause before filing this lawsuit?

14 A. I mean, there's people that I work
15 with, my colleagues.

16 MS. KLEIN: Erika, can I clarify?
17 You're asking this question in his role as a
18 30(b)(6) witness and not his personal -- his
19 personal capacity; is that right?

20 MS. PROUTY: That is correct.

21 MS. KLEIN: So is it fair to say that
22 your question, when you say did you talk to, that
23 you mean did anybody at Common Cause talk to
24 members before about -- about this -- like the you
25 being did Common Cause talk to members before the

1 Q. Who was the candidate of choice of
2 the standing member in House District 7 in the
3 2022 US Senate race in North Carolina?

4 A. Again, that was not a conversation
5 that I had with any of the members that we were
6 contacting.

7 Q. Okay. And who was the candidate
8 of choice of the standing member who resides in
9 House District 7 in the 2020 presidential
10 election?

11 A. Ask me that again. I'm sorry.

12 Q. Who was the candidate of choice of
13 the standing member --

14 A. Oh.

15 Q. -- who resides in House District 7
16 in the 2020 presidential election?

17 A. Again, I don't know.

18 Q. Okay. And if I asked you the same
19 questions about the other Common Cause members
20 in House District 7, would you give me the same
21 answers?

22 A. I would.

23 Q. Okay. And if I asked you about
24 the standing members in House District 8, would
25 you give me the same answers?

1 A. Yes.

2 Q. How many members has Common Cause
3 identified in Congressional District 5?

4 A. I don't know the number.

5 Q. And what is the name of one of the
6 standing members who resides in Congressional
7 District 5?

8 A. I'm not at liberty to share any
9 names of any of the --

10 Q. And what's the -- what's the basis
11 for your refusal to answer that question?

12 A. First Amendment.

13 Q. Okay. And so you're not willing
14 to provide that name of the Common Cause member
15 who resides in Congressional District 5 based
16 on the First Amendment?

17 A. That's correct.

18 Q. Do you recall the name of that
19 standing member in Congressional District 5?

20 A. Not here, but I have confirmed
21 that we have an active Common Cause North -- or
22 we had active Common Cause North Carolina
23 members who are part of the standing members
24 in this complaint living in Congressional
25 District 1 -- or did you ask Congressional

1 District 5? I'm sorry. Was it 1 or 5?

2 Q. 5.

3 A. 5. Congressional District 5.

4 Q. Okay. When you say I confirmed?

5 A. I've looked at the list.

6 Q. Okay. And when did you last look
7 at that list?

8 A. As we were filing in that
9 discovery. I don't know that I've looked at it
10 since then.

11 Q. And if I asked you the same
12 question -- well, strike that.

13 Let's clarify that. The last time
14 you looked at that, you said when you were
15 finalizing discovery. Was that in July of
16 2024?

17 A. That's correct.

18 Q. And you've not looked at that list
19 since July of 2024?

20 A. No, I don't believe I have.

21 Q. And if I asked you the same
22 questions about Congressional District 1, would
23 you give me the same answers?

24 A. I would.

25 Q. Okay. And if I asked you to

1 identify any of the members in the districts
2 that are listed, the districts and counties
3 that are listed in paragraphs 9 and 10 of your
4 affidavit, would your answer be the same?

5 A. It would be the same, yes.

6 Q. And you would refuse to answer and
7 identify the names and addresses of all of the
8 members who live in those districts and
9 counties based on the First Amendment
10 privilege?

11 A. That's correct.

12 MS. PROUTY: Okay. It might be a
13 good place for a break.

14 THE WITNESS: We can.

15 MS. PROUTY: We can go off the
16 record.

17 (Recess taken from 2:21 to 2:38.)

18 MS. PROUTY: We're back on the
19 record.

20 BY MS. PROUTY:

21 Q. Mr. Phillips, if you could go to
22 Exhibit 2. It's the complaint.

23 A. Okay. We have it up.

24 Q. Okay. And paragraph 17, it's
25 page 7.

1 A. We have it.

2 Q. Okay. I'm not going to read it to
3 you because I'm sure that you're already tired
4 of my voice, but my count -- it lists that
5 Common Cause has members who identify as Black
6 or African-American, and I count six Senate
7 Districts, I count 14 House Districts, and four
8 Congressional Districts.

9 Does that look right to you?

10 A. It does.

11 Q. Okay. And then I also count --
12 and this isn't a memory test, but I also count
13 20 counties. Does that sound right to you?

14 A. That sounds correct.

15 Q. Okay. So if we could then go to
16 Exhibit 3 and go to interrogatory number 4 on
17 page 13 specifically, and here I see, Plaintiff
18 Common Cause has as of the date of this
19 disclosure identified members who identify as
20 Black or African-American in at least the
21 following districts, and then I see that three
22 Senate Districts are listed, ten House
23 Districts are listed, and two Congressional
24 Districts are listed.

25 Do you agree with me there, that

1 out what their strategy would be regarding
2 asking the majority party to hold public
3 hearings and to, you know, adopt a criteria
4 that is fair; those kinds of things we talked
5 with them.

6 MS. PROUTY: I'm going to mark
7 another exhibit. This will be Exhibit 7.

8 (Exhibit 7 was marked
9 for identification.)

10 BY MS. PROUTY:

11 Q. Let me know when you have it
12 available on your screen.

13 MS. KLEIN: I think we might have to
14 like refresh or something --

15 MS. PROUTY: Yeah.

16 MS. KLEIN: -- to get it on there.
17 All right. Yeah. We have it up.

18 BY MS. PROUTY:

19 Q. Do you recognize this document?
20 And if you need to scroll through it --

21 A. Yeah, if I could scroll through
22 it. You know, I did not produce that document
23 so I can't say that, oh, I remember, you know,
24 it. There's a lot of things that obviously I'm
25 consuming relating to redistricting and past

1 litigation in other cases. So, in that sense,
2 I'm familiar with it.

3 Q. Have you seen this document
4 before?

5 A. I think I have. I don't -- I
6 can't say that I have not seen it. It's a lot
7 of information and, again, when this
8 complicated process is happening, there's lots
9 of things I'm reviewing and absorbing and
10 reading.

11 Q. Do you know whether it was
12 prepared by Common Cause?

13 A. It may be something that Ann or
14 someone prepared, but I just don't know if it
15 was us or someone else in the advocacy
16 community and shared with us. Again, it's not
17 that I am clueless about all this. It's just
18 with all the things that are happening, again,
19 sometimes I'm -- in my mind, at this moment, I
20 guess I can't say, oh, yes, that was produced
21 by so-and-so.

22 Q. Are you aware that Representative
23 Harrison recently testified that she believed
24 Common Cause may have prepared this document?

25 A. I have not -- I was not aware of,

1 you know, that testimony or whatever.

2 MS. PROUTY: Okay. We can go off
3 the record.

4 (Recess taken from 4:01 to 4:08.)

5 MS. PROUTY: I don't have any further
6 questions for the witness at this time, but as
7 indicated earlier, we are holding the deposition
8 open pending the Court's resolution of the NAACP
9 plaintiffs' motion for protective order and the
10 instructions not to answer questions today based
11 on the First Amendment privilege.

12 I'm also holding the deposition
13 open in light of the fact that documents were
14 produced less than 48 hours before the start of
15 this deposition. So we reserve the right to
16 review those and ask additional questions.

17 I'll pass to you, Hilary.

18 MS. KLEIN: Thanks. We'll just make
19 an objection to keeping it open and an objection
20 to keeping it open due to the document disclosure,
21 but I will say that we are willing to meet and
22 confer on both of those issues, Erika.

23 MS. PROUTY: Okay.

24 MS. KLEIN: But we'll just object for
25 the record. And I'm going to go forward and ask a

1 few questions.

2 EXAMINATION

3 BY MS. KLEIN:

4 Q. So you understand that you're
5 still under oath?

6 A. I do.

7 Q. Okay. So you know me, I am your
8 lawyer in this case. I'm going to go through
9 and ask you a few questions about a couple
10 things you were just asked about.

11 A. Okay.

12 Q. So can you describe to me the
13 relationship between members of Common Cause
14 North Carolina and the membership of, you know,
15 Common Cause National?

16 A. Technically, everyone is a member
17 of Common Cause, and in that we're a chapter of
18 the National branch, we do have, you know,
19 members that we claim as North Carolina members
20 because of their actions and activities with
21 us, but everybody's a member of Common Cause.

22 Q. And when you say everybody's a
23 member of Common Cause, do you mean everybody
24 in Common Cause North Carolina is a member of
25 National?

1 Q. Is it fair to say that if somebody
2 has a consistent voting record, they are likely
3 to vote again in the future?

4 A. Yes.

5 MS. PROUTY: Objection.

6 BY MS. KLEIN:

7 Q. Do you have any -- in your work in
8 your 20-plus years with Common Cause, do you
9 have any concept of whether Common Cause
10 members specifically are more likely to vote in
11 a particular election?

12 MS. PROUTY: Objection.

13 A. What do I --

14 BY MS. KLEIN:

15 Q. You can still answer.

16 A. Yeah. I would be hard-pressed to
17 say that any Common Cause member that we have
18 engaged with is not an active consistent voter
19 in every election.

20 Q. Why is that?

21 A. Because, again, they care about
22 the issues that we are promoting. And it's all
23 connected, obviously, to who is representing us
24 in the legislature or in congress. So these
25 are as active as members of a democracy as we

1 have in North Carolina.

2 Q. When you earlier said you don't
3 provide memberships outside of Common Cause,
4 when you said Common Cause, were you including
5 folks -- were you or were you not including
6 folks like Common Cause's attorneys that you
7 have confidentiality agreements with?

8 A. Well, of course, that would be an
9 exception, so we would be sharing that with our
10 attorneys where we had that protection.

11 Q. And without disclosing the content
12 of any discussions with attorneys, is that
13 because, as a general matter, you're relying on
14 your attorneys for the assertions of standing
15 in this?

16 A. Yes, absolutely.

17 Q. So you're relying on your
18 attorneys to provide the legal advice regarding
19 standing, correct?

20 A. We are.

21 Q. You are not an attorney?

22 A. I am not an attorney.

23 Q. So you do not know the legal basis
24 for standing as far as the case law or anything
25 like that?

1 A. I do not. I do not have that
2 understanding.

3 Q. But you do know who your members
4 are, correct?

5 A. I do.

6 Q. And you do know where they live,
7 correct?

8 A. That is correct.

9 Q. And using public voting records,
10 you can verify that they are active voters in a
11 particular district?

12 A. Absolutely. Yes.

13 Q. Okay. All right. We can take --
14 I'll take this down.

15 Going back -- you were asked
16 questions about whether you had talked to
17 specific members about the possibility of being
18 deposed, and you said something like that was
19 not even on the table. Do you remember that?

20 A. I do.

21 Q. What impact do you think it would
22 have to your members by even bringing up the
23 possibility that if Common Cause challenged the
24 law that any one of their members could be then
25 deposed?

1 MS. PROUTY: Objection.

2 A. I think it would be very harmful
3 to our organization. We have a variety of
4 members, and many of these folks are very
5 committed to our issues, but it's different
6 from being someone that -- saying public, has a
7 public persona. And I have a strong belief
8 that many people would lessen their engagement
9 with Common Cause and the kinds of things we do
10 and perhaps even say we can no longer be a
11 member, we are not going to continue to support
12 you financially because of that.

13 Q. What kind of impact would it have
14 on perhaps some of your working or young
15 members to be called for a deposition in a
16 litigation like this?

17 MS. PROUTY: Objection.

18 A. A lot of -- it's a big burden to
19 carry, particularly for someone working and
20 young who is balancing their lives. And this
21 is something they believe in, they're a part of
22 us, and they support the litigation, but then
23 to kind of being on the front lines and having
24 to prepare and take the time and just given the
25 fact that doing, you know, all of this would be

1 a tremendous burden on, and particularly young
2 people.

3 BY MS. KLEIN:

4 Q. And what -- how do you get that
5 sense?

6 A. Well, just understanding that some
7 of the members that we have are super engaged
8 and super active and they have the time and
9 they have the sort of know-how and they put a
10 lot of commitment of their lives, you know, to
11 be an active member because that's what they
12 are being a, you know, strong provider to
13 improving our democracy.

14 It's not to say that younger folks
15 and working folks are not as committed and
16 dedicated, but they don't have the time and
17 they don't have perhaps the experience of
18 having that kind of exposure.

19 Q. And how many years have you been
20 working with members in your role at Common
21 Cause?

22 A. I mean, since I started the job.

23 Q. So if you had to ballpark guess
24 how many members you have interacted with over
25 that period of time, what would you --