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

CONSENT MOTION TO SEAL

Pursuant to Local Rule 5.4 and Section 6 of the parties' Amended Joint Rule 26(f) Report (Doc. 47), Associational Plaintiffs North Carolina State Conference of the NAACP and Common Case and Individual Plaintiffs Mitzi Reynolds Turner, Dawn Daly-Mack, Hollis Briggs, Corine Mack, Calvin Jones, Linda Sutton, and Syene Jasmin (collectively, "NAACP Plaintiffs") respectfully move the Court for an order permanently sealing the

unredacted voting records of the named Plaintiffs and non-party members ("standing members") of the Associational Plaintiffs living in challenged Congressional, state Senate, and state House districts. These documents were filed in support of NAACP Plaintiffs' Opposition to Legislative Defendants' Motion for Partial Summary Judgment. Doc. 82. In support of this motion, NAACP Plaintiffs state as follows:

1. In support of their Opposition to Legislative Defendants' Motion for Partial Summary Judgment, NAACP Plaintiffs have submitted voting records of named Plaintiffs (Doc. 82-2) and standing members (Docs. 82-3 and 82-4) upon whom NAACP Plaintiffs predicate standing.

2. The unredacted voting records of named Plaintiffs were previously produced to Legislative Defendants and were marked as "Confidential," and those of standing members were marked both "Confidential" and "Attorneys Eyes Only," pursuant to the parties' protective order. *See* Docs. 55 (Protective Order), 77-1 (Addendum to Protective Order).

3. The voting records are made available by the North Carolina State Board of Elections and contain personally identifiable information, including each member's full name, residential address, registration date, self-identified demographic information, and voting history.

4. NAACP Plaintiffs respectfully request permission to redact all individualized information from the voting records of standing members on the public version of these documents, and to seal the unredacted voting records of standing members. Publicly disclosing the identities of standing members seriously implicates the members'

First Amendment rights of free association because of "the vital relationship between freedom to associate and privacy in one's associations." *NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958); *see also* Doc. 62 at 10–13.

5. The North Carolina NAACP "strictly regulate[s]" access to membership lists to protect individual members from public disclosure and the "risk of retaliation against members following a longstanding history of loss of life and livelihood." Doc. 63-6 ¶ 13 (Maxwell Decl.); *see also* Doc. 63-8 ¶ 3 (Second Maxwell Decl.) (detailing recent examples of retaliation against NAACP members). Current North Carolina NAACP President Deborah Maxwell further believes that disclosure of membership information would impair the organization's "ability to maintain current members and recruit new members in the future." Doc. 63-6 ¶ 14.

6. Likewise, Common Cause keeps its membership information confidential due to "privacy concerns, and the risk of retaliation." Doc. 63-9 ¶ 13 (Phillips Decl.). Current North Carolina Common Cause Executive Director Bob Phillips believes that "identification of our members would place their safety and privacy in jeopardy" and that public disclosure would result in a "chilling effect" on members' engagement in civic organizations. *Id.*

7. This Court has previously sealed documents disclosing the identities of standing members of organizations asserting associational standing, finding that the organization's "interests in protecting the identity of its Standing Members and preserving the confidentiality of sensitive donor information are sufficiently compelling to overcome the First Amendment presumptive right of access." *Students for Fair Admissions, Inc. v.*

Univ. of N.C., 1:14CV954, 2018 U.S. Dist. LEXIS 168636, at *20 (M.D.N.C. Sept. 29, 2018).

8. This Court has also granted in part a protective order over these voting records, allowing NAACP Plaintiffs to produce standing member names and addresses pursuant to the parties' protective order, which provides that such information may remain confidential and be presented under seal at trial. Doc. 75 at 14; *see also* Docs. 55 (Consent Protective Order) and 77-1 (Addendum to Protective Order providing for "Attorneys Eyes Only" designation by agreement of the parties).

9. A compelling interest in maintaining First Amendment associational rights therefore supports permanently sealing the unredacted voting records of standing members of the Associational Plaintiffs. The sealing of all individualized information in these records (i.e., not only standing member names but also full addresses, demographic information, personally identifying registration and voter ID numbers, date of registration and voting history) is necessary to prevent the identification of any standing member by review of the public voter file. While standing is disputed in Defendants' Motion for Partial Summary Judgment, they do not specifically dispute the accuracy, authenticity, or contents of these voting records. *See generally* Doc. 78.

10. NAACP Plaintiffs also respectfully request permission to redact from the publicly-filed version of the Individual Plaintiffs' voting records their street address (but not town, county, or zip code) and middle names, and to file the unredacted versions of these records under seal. These limited redactions are sought to reduce the risk from disclosure of what can be, cumulatively, sensitive identifying information, i.e., full legal

names and the specific street addresses with a voting history that also indicates a history of residence. The wealth of detailed information this provides about them on the public docket may make them susceptible to identity theft or other retaliatory actions, and a limited redaction of information that is not germane to the merits of these proceedings (Plaintiffs' residences are not disputed in Defendants' Motion for Partial Summary Judgment) will appropriately balance the protection of "sensitive details [such] as a person's home address," *Ams. For Prosperity Found. v. Bonta*, 594 U.S. 595, 617 (2021), while allowing public access to all other information relevant to the case. *See, e.g*, *Scott v. City of Durham*, No. 1:20-CV-558, 2022 U.S. Dist. LEXIS 44808, at *16 (M.D.N.C. Mar. 14, 2022) (noting "risk of identity theft and other potential harms" from disclosure of address in conjunction with other information, and granting motion to seal where information was "not relevant to summary judgment"); *Vandermeer v. M/V Charazz*, No. 4:15-cv-153, 2017 U.S. Dist. LEXIS 8782, at *3 (E.D.N.C. Jan. 23, 2017) (recognizing risk of identity theft, and granting motion to seal where party's "interests in privacy outweigh the public's right to access to the un-redacted Interrogatory Responses").

11. The parties have agreed to the default procedures of Local Rule 5.4(c) when moving to file documents under seal. Doc. 47 at 7.

12. The State Board Defendants and the Williams Plaintiffs consent to this motion. It is Legislative Defendants' continued position that the underlying material is not governed by privilege. However, to avoid additional litigation over this issue, Legislative Defendants will consent to the sealing requested here. Legislative Defendants' position is limited to this filing and should not be construed as waiving Legislative Defendants'

underlying position on the privilege, or as future consent to continue shielding the information at trial.

13. NAACP Plaintiffs have filed publicly available, redacted voting records as Exhibits 1, 2, and 3 to their Opposition to Legislative Defendants' Motion for Partial Summary Judgment. Doc. 82.

14. Pursuant to Local Rule 5.4(c), NAACP Plaintiffs are filing unredacted versions of the voting records under temporary seal, and will submit to the Court the Checklist and Summary Chart required by Local Rule 5.4(c)(6).

15. Should the Court deny this motion, NAACP Plaintiffs elect, pursuant to Local Rule 5.4(c)(7), the option of withdrawing the unredacted voting records and time to seek consent of any impacted individuals before doing so.

For the reasons set forth above, NAACP Plaintiffs respectfully request that the Court grant their motion to seal the unredacted voting records of individual plaintiffs and standing members.

Dated: January 7, 2025

Respectfully submitted,

/s/Lily Talerman
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CERTIFICATE OF SERVICE

I certify that on January 7, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Lily Talerman
Lily Talerman

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
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[PROPOSED] ORDER

This matter is before the Court upon the unopposed Motion by the NAACP Plaintiffs to permanently seal the unredacted voting records of named Plaintiffs and non-party members of the Associational Plaintiffs, pursuant to Local Rule 5.4, filed in support of NAACP Plaintiffs' Opposition to Legislative Defendants' Motion for Partial Summary Judgment. Doc. 82.

After consideration of the Motion, and upon finding the interests in sealing the requested information outweigh the public's right to access and no alternatives to filing the unredacted documents under seal are available, the Court hereby GRANTS the Motion.

IT IS SO ORDERED on this, the _____ day of January, 2025.

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