IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

RODNEY D. PIERCE and MOSES MATTHEWS, Plaintiffs, v. THE NORTH CAROLINA STATE BOARD OF ELECTIONS, *et al.*, Defendants.	Case No. 4:23-cv-193-D

PLAINTIFFS' OPPOSITION TO
LEGISLATIVE DEFENDANTS' MOTION *IN LIMINE*

Legislative Defendantsô motion to exclude Plaintiffsô Demonstration District E should be denied because that district is proper rebuttal evidence, and the timing of disclosure is harmless. D.E. 86.

In his May 31, 2024 opening report, Plaintiffsô expert Blakeman Esselstyn opined that it was possible to draw a reasonably configured majority-Black district contained entirely within enacted Senate Districts 1 and 2, relying on Demonstration Districts B and D. Defendantsô expert Sean Trende then criticized those districts, asserting that Mr. Esselstyn should have drawn districts that had over 50% Black Citizen Voting Age Population (CVAP) using 2022 figures rather than 2020 figures; that Demonstration Districts B and D improperly split Elizabeth City; and that race explained the split. In direct response to those criticisms, Mr. Esselstyn made changes to the boundaries of *four* precincts (only two of which impacted populated areas) to form Demonstration District E. Demonstration District E does not split Elizabeth City, yet has a higher BVAP and Black CVAP than Demonstration District D, rebutting Dr. Trendeôs claims that race drove the prior split of Elizabeth City. Demonstration District E also is over 50% Black CVAP using the

w

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at www.veritext.com.