

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(RICHMOND DIVISION)

PAGE, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF
ELECTIONS, *et al.*,

Defendants.

Civil Action No. 3:13-cv-00678-REP-LO-AKD

**OBJECTIONS OF CHRISTOPHER MARSTON TO PLAINTIFFS'
THIRD PARTY SUBPOENA FOR THE PRODUCTION OF DOCUMENTS**

Third party Christopher Marston (“Marston”), through his counsel, pursuant to Rule 45(d)(2)(B) of the Federal Rules of Civil Procedure, and pursuant to an agreement with counsel for Plaintiffs to extend time to respond or object, hereby states the following objections and responses to Plaintiffs’ Third Party Subpoena for the Production of Documents (“Subpoena”):

GENERAL OBJECTIONS

1. The following general objections (“General Objections”) shall apply to each paragraph of the Subpoena unless the response expressly states otherwise.
2. Marston objects to Plaintiffs’ “Definitions and Instructions” to the extent that they deviate from or conflict with, or impose a greater obligation than that set forth in the Local Civil Rules and the Federal Rules of Civil Procedure.
3. Marston objects to Plaintiffs’ definition of “2012 Virginia Redistricting” as provided in the “Definitions and Instructions” section of the Subpoena as overly broad and not reasonably calculated to lead to the discovery of relevant, admissible evidence.

4. Marston objects to the Subpoena because it seeks information or the production of documents that contain privileged attorney-client material, that constitute attorney work product, that contain material protected by legislative privilege as recognized in *Equal Emp't Opportunity Comm'n v. Wash. Suburban Sanitary Comm'n*, 631 F.3d 174, 180 (4th Cir. 2011) (quoting and citing *Tenney v. Brandhove*, 341 U.S. 367, 372 (1951)), or that are otherwise privileged or protected from disclosure.

5. Marston objects to the Subpoena to the extent that it purports to require Marston to provide information or produce documents not within his possession, custody, or control.

6. Marston objects to the Subpoena to the extent that it requires Marston to produce documents which are already in the possession, custody, or control of Plaintiffs, or their agents, attorneys, or representatives, or that are publicly-available.

7. Marston does not waive or intend to waive objections as to competence, relevance, materiality, or admissibility of any documents produced in response to the Subpoena and reserves all rights to object on any grounds to the use of any of said documents or the subject matter thereof in all subsequent proceedings, including the trial or this or any other matter.

8. Marston objects to the Subpoena to the extent that it seeks production of protected information prior to the entry of an appropriate Protective Order in this matter.

9. Marston objects to the Subpoena to the extent that it is overly broad, unduly burdensome, potentially duplicative, and not reasonably calculated to lead to the discovery of relevant, admissible evidence.

10. Marston's specific responses are based upon a good faith review of documents and information currently available to and located by him and his counsel. Thus, the responses to the requests in the Subpoena are made without prejudice to Marston's rights to produce

supplemental or additional responses and documents as third-party discovery in this case proceeds.

SPECIFIC OBJECTIONS

Subject to and without waiving the foregoing General Objections, Marston specifically objects and response to the Subpoena's document requests as follows:

Request No. 1: All maps and draft maps related to the 2012 Virginia Redistricting, and all documents related to any efforts by you, your staff members, agents, consultants, employees, advisors, experts, and personnel to create such maps.

Response: Objection. This Request seeks the disclosure of information and documents protected by the legislative privilege and the attorney-client and/or work product privileges. This Request also is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 2: All communications with the General Assembly related to the 2012 Virginia Redistricting, including without limitation all communications with General Assembly staff members, agents, employees, consultants, advisors, experts, and personnel.

Response: Objection. This Request seeks the disclosure of information and documents protected by the legislative privilege and the attorney-client and/or work product privileges. This Request also is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 3: All communications with members of Congress related to the 2012 Virginia Redistricting, including without limitation all communications with their staff members, agents, employees, consultants, advisors, experts, and personnel.

Response: Objection. This Request seeks the disclosure of information and documents protected by the legislative privilege. This Request also is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 4: All communications with the Republican National Committee related to the 2012 Virginia Redistricting, including without limitation all communications with its members, staff members, agents, employees, consultants, advisors, experts, and personnel.

Response: Objection. This Request seeks the disclosure of information and documents protected by the legislative privilege. This Request also is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 5: All communications with the National Republican Congressional Committee related to the 2012 Virginia Redistricting, including without limitation all communications with its members, staff members, agents, employees, consultants, advisors, experts, and personnel.

Response: Objection. This Request seeks the disclosure of information and documents protected by the legislative privilege. This Request also is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Request No. 6: All public statements made by you related to the 2012 Virginia Redistricting.

Response: Objection. This Request is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding the foregoing objections, Marston responds that there are no responsive documents.

Request No. 7: All documents related to the 2012 Virginia Redistricting, including without limitation all emails, letters, notes, press releases, and other documents.

Response: Objection. This Request seeks the disclosure of information and documents protected by the legislative privilege and the attorney-client and/or work product privileges. This Request also is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

Dated: March 28, 2014

Respectfully submitted,

ROBERT B. BELL, WILLIAM ROBERT JANIS,
AND CHRISTOPHER MARSTON

By Counsel

/s/ Jennifer M. Walrath

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of March, 2014, a copy of the foregoing Objections of Christopher Marston to Plaintiffs' Third Party Subpoena for the Production of Documents was filed and served pursuant to the Court's electronic filing procedures using the Court's CM/ECF system on the following counsel of record:

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