

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

\_\_\_\_\_  
NORTH CAROLINA STATE CONFERENCE OF )  
THE NAACP, EMMANUEL BAPTIST CHURCH, )  
NEW OXLEY HILL BAPTIST CHURCH, )  
BETHEL A. BAPTIST CHURCH, COVENANT )  
PRESBYTERIAN CHURCH, CLINTON )  
TABERNACLE AME ZION CHURCH, )  
BARBEE'S CHAPEL MISSIONARY BAPTIST )  
CHURCH, INC., ROSANELL EATON, )  
ARMENTA EATON, CAROLYN COLEMAN, )  
BAHEEYAH MADANY, JOCELYN FERGUSON- )  
KELLY, FAITH JACKSON, and MARY PERRY, )

Plaintiffs,

v.

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official )  
capacity as the Governor of North Carolina, KIM )  
WESTBROOK STRACH, in her official capacity as )  
Executive Director of the North Carolina State )  
Board of Elections, JOSHUA B. HOWARD, in his )  
official capacity as Chairman of the North Carolina )  
State Board of Elections, RHONDA K. AMOROSO, )  
in her official capacity as Secretary of the North )  
Carolina State Board of Elections, JOSHUA D. )  
MALCOLM, in his official capacity as a member of )  
the North Carolina State Board of Elections, PAUL )  
J. FOLEY, in his official capacity as a member of )  
the North Carolina State Board of Elections and )  
MAJA KRICKER, in her official capacity as a )  
member of the North Carolina State Board of )  
Elections, )

\_\_\_\_\_  
Defendants.

**PLAINTIFFS' FIRST SET OF REQUEST FOR PRODUCTION TO  
SENATOR PHIL BERGER**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to Sen. Phil Berger. In



accordance with Rule 45, Sen. Phil Berger shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

### **INSTRUCTIONS**

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for

electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

### **DEFINITIONS**

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.

2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means Senator Phil Berger and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other

corporate affiliates of Senator Berger, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

15. “Procedural irregularities” shall mean any legislative processes outside of standard floor debate, amendments, tabling procedures, and passage by majority vote.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

All documents and communications received or created by you concerning the rationale, purpose, implementation, and/or text of H.B. 589.

#### **REQUEST FOR PRODUCTION NO. 2:**

All documents concerning communications between you and your constituents regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

#### **REQUEST FOR PRODUCTION NO. 3:**

All documents concerning communications between you and any other legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

#### **REQUEST FOR PRODUCTION NO. 4:**

All documents concerning communications between you and the office of the Governor of North Carolina regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

#### **REQUEST FOR PRODUCTION NO. 5:**

All documents concerning communications between you and any North Carolina state

agency regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 6:**

All documents concerning communications between you and any lobbyists, political organizations, or public interest groups regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications received or created by you relating to reports or data issued by the State Board of Elections concerning proposed, debated, or enacted voting legislation during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of the number, race, and/or ethnicity of registered voters who do not have any of form of photo identification that is acceptable to vote under H.B. 589.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications received or created by you referring or relating to estimates, reports, studies, or analyses of (i) the costs to voters to secure documents required to obtain the photo identification required to vote as set forth in H.B. 589; or (ii) the costs or expense to the State of North Carolina associated with implementing the photo identification requirement set forth in H.B. 589.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications received or created by you referring or relating to a comparison of the State of North Carolina's voter registration database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have an NCDOT-issued ID.

**REQUEST FOR PRODUCTION NO. 13:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

**REQUEST FOR PRODUCTION NO. 14:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 15:**

All documents and communications received or created by you relating to the cost or expense, including any estimates or analyses, of administering any provision in H.B. 589 or any



election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 16:**

All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

**REQUEST FOR PRODUCTION NO. 17:**

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair  
Edward A. Hailes, Jr.  
Denise D. Lieberman  
Donita Judge  
Caitlin Swain  
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By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)  
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# UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

*Plaintiff*

v.

Patrick Lloyd McCrory, et al.

*Defendant*

Civil Action No. 1:13-CV-658

## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Senator Thom Goolsby

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516

Date and Time:

01/20/2014 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

/s/ Adam Stein

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com  
919-240-7089

### Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

# **ATTACHMENT A**

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

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NORTH CAROLINA STATE CONFERENCE OF )  
THE NAACP, EMMANUEL BAPTIST CHURCH, )  
NEW OXLEY HILL BAPTIST CHURCH, )  
BETHEL A. BAPTIST CHURCH, COVENANT )  
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4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.



7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

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electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

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2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

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6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

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11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means Senator Thom Goolsby and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other

corporate affiliates of Senator Goolsby, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

15. “Procedural irregularities” shall mean any legislative processes outside of standard floor debate, amendments, tabling procedures, and passage by majority vote.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

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**REQUEST FOR PRODUCTION NO. 17:**

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair  
Edward A. Hailes, Jr.  
Denise D. Lieberman  
Donita Judge  
Caitlin Swain  
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By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)  
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# UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

*Plaintiff*

v.

Patrick Lloyd McCrory, et al.

*Defendant*

Civil Action No. 1:13-CV-658

## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Senator Ralph Hise

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516

Date and Time:

01/20/2014 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

/s/ Adam Stein

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com  
919-240-7089

### Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

# **ATTACHMENT A**

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

---

NORTH CAROLINA STATE CONFERENCE OF )  
THE NAACP, EMMANUEL BAPTIST CHURCH, )  
NEW OXLEY HILL BAPTIST CHURCH, )  
BETHEL A. BAPTIST CHURCH, COVENANT )  
PRESBYTERIAN CHURCH, CLINTON )  
TABERNACLE AME ZION CHURCH, )  
BARBEE'S CHAPEL MISSIONARY BAPTIST )  
CHURCH, INC., ROSANELL EATON, )  
ARMENTA EATON, CAROLYN COLEMAN, )  
BAHEEYAH MADANY, JOCELYN FERGUSON- )  
KELLY, FAITH JACKSON, and MARY PERRY, )

Plaintiffs,

v.

**Case No.: 1:13-CV-658**

PATRICK LLOYD MCCRORY, in his official )  
capacity as the Governor of North Carolina, KIM )  
WESTBROOK STRACH, in her official capacity as )  
Executive Director of the North Carolina State )  
Board of Elections, JOSHUA B. HOWARD, in his )  
official capacity as Chairman of the North Carolina )  
State Board of Elections, RHONDA K. AMOROSO, )  
in her official capacity as Secretary of the North )  
Carolina State Board of Elections, JOSHUA D. )  
MALCOLM, in his official capacity as a member of )  
the North Carolina State Board of Elections, PAUL )  
J. FOLEY, in his official capacity as a member of )  
the North Carolina State Board of Elections and )  
MAJA KRICKER, in her official capacity as a )  
member of the North Carolina State Board of )  
Elections, )

---

Defendants.

**PLAINTIFFS' FIRST SET OF REQUEST FOR PRODUCTION TO  
SENATOR RALPH HISE**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to Sen. Ralph Hise. In

accordance with Rule 45, Sen. Ralph Hise shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

### **INSTRUCTIONS**

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for

electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

### **DEFINITIONS**

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.
2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.
3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.
4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.



5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

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14. “You” means Senator Ralph Hise and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other

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**REQUEST FOR PRODUCTION NO. 17:**

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

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Edward A. Hailes, Jr.  
Denise D. Lieberman  
Donita Judge  
Caitlin Swain  
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Irving Joyner (N.C. State Bar # 7830)  
P.O. Box 374  
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By: /s/ Adam Stein

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*Defendant*

Civil Action No. 1:13-CV-658

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To: Senator Bob Rucho

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516

Date and Time:

01/20/2014 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

/s/ Adam Stein

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com  
919-240-7089

### Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:



**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

# **ATTACHMENT A**

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

---

NORTH CAROLINA STATE CONFERENCE OF )  
THE NAACP, EMMANUEL BAPTIST CHURCH, )  
NEW OXLEY HILL BAPTIST CHURCH, )  
BETHEL A. BAPTIST CHURCH, COVENANT )  
PRESBYTERIAN CHURCH, CLINTON )  
TABERNACLE AME ZION CHURCH, )  
BARBEE'S CHAPEL MISSIONARY BAPTIST )  
CHURCH, INC., ROSANELL EATON, )  
ARMENTA EATON, CAROLYN COLEMAN, )  
BAHEEYAH MADANY, JOCELYN FERGUSON- )  
KELLY, FAITH JACKSON, and MARY PERRY, )

Plaintiffs,

v.

**Case No.: 1:13-CV-658**

PATRICK LLOYD MCCRORY, in his official )  
capacity as the Governor of North Carolina, KIM )  
WESTBROOK STRACH, in her official capacity as )  
Executive Director of the North Carolina State )  
Board of Elections, JOSHUA B. HOWARD, in his )  
official capacity as Chairman of the North Carolina )  
State Board of Elections, RHONDA K. AMOROSO, )  
in her official capacity as Secretary of the North )  
Carolina State Board of Elections, JOSHUA D. )  
MALCOLM, in his official capacity as a member of )  
the North Carolina State Board of Elections, PAUL )  
J. FOLEY, in his official capacity as a member of )  
the North Carolina State Board of Elections and )  
MAJA KRICKER, in her official capacity as a )  
member of the North Carolina State Board of )  
Elections, )

---

Defendants.

**PLAINTIFFS' FIRST SET OF REQUEST FOR PRODUCTION TO  
SENATOR BOB RUCHO**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs

submit their first set of requests for the production of documents and tangible things to Sen. Bob Rucho. In accordance with Rule 45, Sen. Bob Rucho shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

### **INSTRUCTIONS**

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all

persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages

where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

### **DEFINITIONS**

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.
2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.
3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.
4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication

or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means Senator Bob Rucho and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of Senator Rucho, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

15. “Procedural irregularities” shall mean any legislative processes outside of standard floor debate, amendments, tabling procedures, and passage by majority vote.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

All documents and communications received or created by you concerning the rationale, purpose, implementation, and/or text of H.B. 589.

#### **REQUEST FOR PRODUCTION NO. 2:**

All documents concerning communications between you and your constituents regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

#### **REQUEST FOR PRODUCTION NO. 3:**

All documents concerning communications between you and any other legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.



**REQUEST FOR PRODUCTION NO. 4:**

All documents concerning communications between you and the office of the Governor of North Carolina regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 5:**

All documents concerning communications between you and any North Carolina state agency regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 6:**

All documents concerning communications between you and any lobbyists, political organizations, or public interest groups regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications received or created by you relating to reports or data issued by the State Board of Elections concerning proposed, debated, or enacted voting

legislation during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of the number, race, and/or ethnicity of registered voters who do not have any form of photo identification that is acceptable to vote under H.B. 589.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications received or created by you referring or relating to estimates, reports, studies, or analyses of (i) the costs to voters to secure documents required to obtain the photo identification required to vote as set forth in H.B. 589; or (ii) the costs or expense to the State of North Carolina associated with implementing the photo identification requirement set forth in H.B. 589.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications received or created by you referring or relating to a comparison of the State of North Carolina's voter registration database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have an NCDOT-issued ID.

**REQUEST FOR PRODUCTION NO. 13:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

**REQUEST FOR PRODUCTION NO. 14:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 15:**

All documents and communications received or created by you relating to the cost or expense, including any estimates or analyses, of administering any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 16:**

All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

**REQUEST FOR PRODUCTION NO. 17:**

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair  
Edward A. Hailes, Jr.  
Denise D. Lieberman  
Donita Judge  
Caitlin Swain  
ADVANCEMENT PROJECT  
Suite 850  
1220 L Street, N.W.  
Washington, DC 20005  
Telephone: (202) 728-9557  
E-mail: phair@advancementproject.com

Irving Joyner (N.C. State Bar # 7830)  
P.O. Box 374  
Cary, NC 27512  
Telephone: (919) 319-8353  
E-mail: ijoyner@nccu.edu

By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)  
Of Counsel  
TIN FULTON WALKER & OWEN, PLLC  
312 West Franklin Street  
Chapel Hill, NC 27516  
Telephone: (919) 240-7089  
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655 Fifteenth St., N.W.  
Washington, DC 20005  
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E-mail: tyannucci@kirkland.com

# UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

*Plaintiff*

v.

Patrick Lloyd McCrory, et al.

*Defendant*

Civil Action No. 1:13-CV-658

## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Voter Integrity Project, 4441 Six Forks Road #106-233, Raleigh, NC 27609

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516

Date and Time:

01/20/2014 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

/s/ Adam Stein

*Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)*

North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com  
919-240-7089

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*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

### (c) Place of Compliance.

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

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**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

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(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

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(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

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**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

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(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

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(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

# **ATTACHMENT A**



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

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NORTH CAROLINA STATE CONFERENCE OF )  
THE NAACP, EMMANUEL BAPTIST CHURCH, )  
NEW OXLEY HILL BAPTIST CHURCH, )  
BETHEL A. BAPTIST CHURCH, COVENANT )  
PRESBYTERIAN CHURCH, CLINTON )  
TABERNACLE AME ZION CHURCH, )  
BARBEE'S CHAPEL MISSIONARY BAPTIST )  
CHURCH, INC., ROSANELL EATON, )  
ARMENTA EATON, CAROLYN COLEMAN, )  
BAHEEYAH MADANY, JOCELYN FERGUSON- )  
KELLY, FAITH JACKSON, and MARY PERRY, )

Plaintiffs,

v.

**Case No.: 1:13-CV-658**

PATRICK LLOYD MCCRORY, in his official )  
capacity as the Governor of North Carolina, KIM )  
WESTBROOK STRACH, in her official capacity as )  
Executive Director of the North Carolina State )  
Board of Elections, JOSHUA B. HOWARD, in his )  
official capacity as Chairman of the North Carolina )  
State Board of Elections, RHONDA K. AMOROSO, )  
in her official capacity as Secretary of the North )  
Carolina State Board of Elections, JOSHUA D. )  
MALCOLM, in his official capacity as a member of )  
the North Carolina State Board of Elections, PAUL )  
J. FOLEY, in his official capacity as a member of )  
the North Carolina State Board of Elections and )  
MAJA KRICKER, in her official capacity as a )  
member of the North Carolina State Board of )  
Elections, )

---

Defendants.

**PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION TO  
THE VOTER INTEGRITY PROJECT**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to the Voter

Integrity Project. In accordance with Rule 45, the Voter Integrity Project shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

### **INSTRUCTIONS**

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages);

from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

### **DEFINITIONS**

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during the One-Stop early voting period.

1. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

2. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

3. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to

produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

4. “Early voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote in person prior to Election Day.

5. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

6. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

7. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

8. “Office of the Governor” shall mean the Governor of North Carolina and any of his employees, agents, representatives, or other personnel involved in the functions or duties of the political office of the Governor.

9. “Photo identification” shall mean a photo identification card that meets the requirements to vote set forth in H.B. 589.

10. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the close of discovery in the above captioned case.

11. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

12. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

13. “You” means the Voter Integrity Project and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the the Voter Integrity Project, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

14. “Voter Integrity Project” shall mean the Voter Integrity Project of North Carolina located at 4441 Six Forks Road #106-233, Raleigh, North Carolina 27609, including any of its employees, agents, officers, or representatives. It shall also include any predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the Voter Integrity Project of North Carolina.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

All documents and communications received or created by the Voter Integrity Project that reflect or discuss the rationale or purpose for enacting any provision in H.B. 589.

#### **REQUEST FOR PRODUCTION NO. 2:**

All documents concerning communications between the Voter Integrity Project and any legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 3:**

All documents concerning communications between the Voter Integrity Project and the Office of the Governor of North Carolina regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 4:**

All documents concerning communications between the Voter Integrity Project and any North Carolina state agency, including but not limited to the State Board of Elections, Department of Transportation, or Division of Motor Vehicles regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 5:**

All documents concerning communications between the Voter Integrity Project and any lobbyists, political organizations, or public interest groups in North Carolina regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 6:**

All documents and communications referring or relating to any estimate, research, report, study, or analysis received or created by the Voter Integrity Project related to any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications related to any polls or surveys conducted by the

Voter Integrity Project related to any provision in H.B. 589 or any other election legislation that was proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications related to any training programs or “boot camps” held or sponsored by the Voter Integrity Project from 2012 to the present.



Dated: December 5, 2013

Respectfully submitted,

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Edward A. Hailes, Jr.  
Denise D. Lieberman  
Donita Judge  
Caitlin Swain  
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By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

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

Plaintiffs,

v.

PATRICK LLOYD MCCRORY, in his official  
capacity as the Governor of North Carolina, et al.,

Defendants.

Civil Action No. 1:13-CV-658

LEAGUE OF WOMEN VOTERS OF NORTH  
CAROLINA, et al.,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

Civil Action No. 1:13-CV-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA; et al.,

Defendants.

Civil Action No. 1:13-CV-861

**LEAGUE OF WOMEN VOTERS PLAINTIFFS' FIRST SET OF REQUESTS FOR  
PRODUCTION TO DEFENDANT STATE OF NORTH CAROLINA**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the North Carolina League of Women Voters, et al. (collectively, the “Plaintiffs”) request that Defendant the State of North Carolina (“Defendant”) produce all documents responsive to the following Requests for Production (“Requests”). Responses are due within thirty days of service of these requests for production. Responses are to be served to American Civil Liberties Union, 125 Broad St., 18<sup>th</sup> Fl., New York, NY 10004, to the attention of Dale Ho. Each document request is subject to the Instructions and Definitions preceding the specific requests.

**INSTRUCTIONS**

1. If Defendants object to any part of a request, set forth the basis for your objection and respond to all parts of the request to which you do not object.
2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.
3. In responding to these document requests, produce all documents available to Defendants or subject to your reasonable access or control. Documents requested are those in the actual or constructive possession or control of the Defendants, your attorneys, investigators, experts, and anyone else acting on the Defendants’ behalf.
4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Defendants' possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Defendants' possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Defendants' continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs from the start of your term as a Legislator through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that

Defendants obtain after Defendants serve Defendants' answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); file pathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

### **DEFINITIONS**

1. "Concerning" as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.
2. "Communication" means any transfer of information of any type, whether written, oral, electronic, or otherwise.

3. “Complaint” shall mean the Complaint filed by Plaintiffs in the above-captioned action.

4. “Defendants” means the State of North Carolina. For the purposes of this request for production, “Defendants” shall include all members of the North Carolina General Assembly acting in their official capacity and its employees, agents, or representatives, its counsel, and all employees, agents, or representatives of the North Carolina General Assembly. “Defendants” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the North Carolina General Assembly, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

5. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Defendants’ possession, custody or control, including all drafts of all such documents. Defendants are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

6. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day as provided for in N.C. Gen. Stat. § 163-227.2.

7. “General Assembly” shall include any individual members of the North Carolina General Assembly acting in their official capacity including their employees, agents, or representatives or counsel, and the General Assembly as a whole and its employees, agents, or representatives or counsel.

8. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on Election Day.

9. “Legislator” shall mean an elected member of the North Carolina House of Representatives or the North Carolina Senate, including any employees, staff, interns, representatives, designees, agents, or any person acting or purporting to act on a Legislator’s behalf or on behalf of the General Assembly, as well as committee, agency, or other group of Legislators.

10. “Minority Persons” refers to American citizens who are black or African American, Hispanic or Latino American, Asian American, American Indian, and/or Alaskan Native.

11. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

12. “Procedural irregularities” shall mean any legislative processes outside of the standard floor debate, amendments, tabling procedures, and passage by majority vote.

13. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the close of discovery in this case.

14. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

15. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

16. “You” means Senators Tom Apodaca, Phil Berger, and Bob Rucho and Representatives Frank Iler, David Lewis, Tom Murry, Ruth Samuelson, Thom Tillis, Harry Warren, and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the above named Senators and Representatives, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

All documents and communications received or created by you concerning the drafting, introduction, passage, and implementation of H.B. 589.

#### **REQUEST FOR PRODUCTION NO. 2:**

All documents received or created by you concerning the General Assembly’s reasons, justifications, rationales, interests, and/or purposes in enacting any of the provisions of H.B. 589, including but not limited to reports, studies, or analyses issued by or to the General Assembly, its agencies, employees, agents or individual Legislators.

#### **REQUEST FOR PRODUCTION NO. 3:**



All documents received or created by you concerning any analysis, assessment, or review of whether the proposed or enacted provisions of H.B. 589 will have a negative disparate impact, or otherwise will have any retrogressive effect, on the ability of Minority Persons to participate effectively in the electoral process or which otherwise concern the effect of these changes on Minority Persons' participation in the electoral process.

**REQUEST FOR PRODUCTION NO. 4:**

All documents concerning communications between you and members of the public, lobbyists, public interest groups or organizations relating to reports, communications, lobbying and testimony concerning election related legislation proposed, debated, and/or enacted during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 5:**

All documents concerning communications relating to any reports, studies, estimates, or analyses concerning election related legislation proposed, debated, and/or enacted during the 2013 session of the General Assembly.

**REQUEST FOR PRODUCTION NO. 6:**

All documents concerning your communications with North Carolina Executive officials concerning the enactment or implementation of any provision of H.B. 589.

**REQUEST FOR PRODUCTION NO. 7:**

All documents concerning communications among North Carolina Legislators concerning the enactment or implementation of any provision of H.B. 589.

**REQUEST FOR PRODUCTION NO. 8:**

All documents concerning your communications with, to, or from members of the North Carolina State Board of Elections concerning the enactment or implementation of any provision of H.B. 589.

**REQUEST FOR PRODUCTION NO.9:**

All documents and communications received or created by you relating to proposed election reforms or changes to the rules, procedures, or practices for early voting, same-day registration, out-of-precinct voting, or the process of reviewing and counting provisional ballots.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, early voting, or potential increased waiting times at polls.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications received or created by you relating to any data tracking, recording, or study of voting patterns by race.

**REQUEST FOR PRODUCTION NO. 13:**

All documents and communications received or created by you relating to complaints or instances of long lines or waiting times during early voting and on Election Day in any county in the state during the 2006, 2008, 2010, and 2012 elections.

**REQUEST FOR PRODUCTION NO. 14:**

All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

**REQUEST FOR PRODUCTION NO. 15:**

All documents and communications received or created by you relating to the General Assembly's plans and efforts to educate citizens of North Carolina as to the provisions of H.B. 589.

**REQUEST FOR PRODUCTION NO. 16:**

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

**REQUEST FOR PRODUCTION NO. 17:**

All documents and communications received or created by you relating to the cost or expense, including any estimates or analyses, of administering any provision in H.B. 589 or any

election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

**REQUEST FOR PRODUCTION NO. 18:**

All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

**REQUEST FOR PRODUCTION NO. 19:**

Any document retention policies that were in effect at the North Carolina General Assembly or individual North Carolina Legislators from 2012 to the present concerning the preservation of public records.

**REQUEST FOR PRODUCTION NO. 20:**

All documents and communications relating to the claims and defenses the State of North Carolina have raised or intend to raise in response to the Complaint, including all communications and/or documents on which you intend to rely on at trial or otherwise in this case.

Dated: December 20, 2013

Respectfully submitted,

Laughlin McDonald\*  
ACLU Voting Rights Project  
2700 International Tower  
229 Peachtree Street, NE  
Atlanta, GA 30303  
(404) 500-1235  
lmcdonald@aclu.org  
*\*appearing pursuant to Local Rule  
83.1(d)*

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ACLU of North Carolina Legal  
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By: /s/ Allison J. Riggs

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*\*appearing pursuant to Local Rule 83.1(d)*

*Attorneys for Plaintiffs in League of Women Voters of North Carolina, et al. v. North Carolina,  
et al.*

## **CERTIFICATE OF SERVICE**

I, Julie A. Ebenstein, hereby certify that on **December 20, 2013**, I served Plaintiffs' **First Set of Requests for Production to Defendant the State of North Carolina** via email and UPS to all named parties below:

Adam Stein, Esq.  
Tin Fulton Walker & Owen, PLLC  
312 West Franklin Street  
Chapel Hill, NC 27516  
Telephone: (919) 240-7089  
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*Attorney for Plaintiffs*

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Catherine Meza  
David G. Cooper  
Spencer Fisher  
Elizabeth Ryan  
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U.S. Department of Justice  
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Washington, D.C. 20530  
Telephone: (800) 253-3931  
Facsimile: (202) 307-3961  
Email: [john.russ@usdoj.gov](mailto:john.russ@usdoj.gov)  
Email: [catherine.meza@usdoj.gov](mailto:catherine.meza@usdoj.gov)  
Email: [david.cooper@usdoj.gov](mailto:david.cooper@usdoj.gov)  
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Respectfully Submitted,

/s/ Julie A. Ebenstein  
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*\*appearing pursuant to Local Rule 83.1(d)*

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

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

Plaintiffs,

v.

PATRICK LLOYD MCCRORY, in his official  
capacity as the Governor of North Carolina, et al.,

Defendants.

Civil Action No. 1:13-CV-658

LEAGUE OF WOMEN VOTERS OF NORTH  
CAROLINA, et al.,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

Civil Action No. 1:13-CV-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA; et al.,

Defendants.

Civil Action No. 1:13-CV-861



**PLAINTIFFS' JOINT SECOND SET OF REQUESTS FOR PRODUCTION TO  
DEFENDANTS MEMBERS OF THE NORTH CAROLINA STATE BOARD OF  
ELECTIONS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the North Carolina NAACP, et al., and the League of Women Voters, et al., (collectively, the “Plaintiffs”) jointly submit their first set of requests for the production of documents to Kim Westbrook Strach, in her official capacity as Executive Director of the North Carolina State Board of Elections; Joshua B. Howard, in his official capacity as Chairman of the North Carolina State Board of Elections; Rhonda K. Amoroso, in her official capacity as Secretary of the North Carolina State Board of Elections; Joshua D. Malcolm, in his official capacity as a member of the North Carolina State Board of Elections; Paul J. Foley, in his official capacity as a member of the North Carolina State Board of Elections; and Maja Kricker, in her official capacity as a member of the North Carolina State Board of Elections (collectively, “Defendants”). In accordance with Rule 34, Defendants shall respond to these requests for production and shall produce the documents requested. Responses are to be served to the *NAACP* Plaintiffs are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, and are due within thirty days of service of these requests for production. Responses to the *League of Women Voters* Plaintiffs are to be served to American Civil Liberties Union, 125 Broad St., 18<sup>th</sup> Fl., New York, NY 10004, to the attention of Dale Ho, and are due within thirty days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

**INSTRUCTIONS**

1. If Defendants object to any part of a request, set forth the basis for your objection and respond to all parts of the request to which you do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to Defendants or subject to your reasonable access or control. Documents requested are those in the actual or constructive possession or control of the Defendants, your attorneys, investigators, experts, and anyone else acting on the Defendants' behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Defendants' possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Defendants' possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Defendants' continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that Defendants obtain after Defendants serve Defendants answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any

portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

### **DEFINITIONS**

1. “Absentee ballot” shall mean a paper ballot issued by mail to a voter who is unable to attend a polling place in person on Election Day or during One-Stop Early Voting.

2. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

3. “Complaint” shall mean the First Amended Complaint filed by Plaintiffs in the above-captioned action.

4. “Defendants” means Kim Westbrook Strach, in her official capacity as Executive Director of the North Carolina State Board of Elections; Joshua B. Howard, in his official capacity as Chairman of the North Carolina State Board of Elections; Rhonda K. Amoroso, in her official capacity as Secretary of the North Carolina State Board of Elections; Joshua D. Malcolm, in his official capacity as a member of the North Carolina State Board of Elections; Paul J. Foley, in his official capacity as a member of the North Carolina State Board of Elections; and Maja Kricker, in her official capacity as a member of the North Carolina State Board of Elections. “Defendants” also shall include all of your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “Defendants” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the North Carolina State Board of Elections, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

5. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Defendants’ possession, custody or control, including all drafts of all such documents, and all documents Defendants have provided to Defendants’ counsel. Defendants are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

6. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day as provided for in N.C. Gen. Stat. § 163-227.2.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on Election Day.

8. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

9. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote under H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same-Day Registration” shall mean in-person voter registration on Election Day or during one-stop voting.

14. “Book closing” shall refer to the deadline after which poll books and other lists of registered voters are created for use by election workers during an election.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

The “book closing” version or “snapshot” of the North Carolina “Voter File” corresponding to or utilized in each election conducted in North Carolina from 2000 to the present (including all primary and general elections), including the then-current file of all registered voters in the State, including but not limited to full name, address, race/ethnicity, date of birth, and unique voter identification (“NCID”) number, provided in a reasonably accessible, searchable, and sortable electronic format (including Excel or other database-compatible format such as a tab-delimited text file, but not including paper or portable document format (.pdf)).

#### **REQUEST FOR PRODUCTION NO. 2:**

The “voter history” file for each election conducted in North Carolina from 2000 to the present (including all primary and general elections), including but not limited to the unique voter identification number (NCID) for each voter casting a ballot, the method in which the

ballot was cast (i.e., early in-person, absentee, or Election Day), and the date on which the ballot was cast, provided in a reasonably accessible, searchable, and sortable electronic format (including Excel or other database-compatible format such as a tab-delimited text file, but not including paper or portable document format (.pdf)).

**REQUEST FOR PRODUCTION NO. 3:**

The last ballot cast “time stamp” and/or the closing procedure time stamp for each voting machine with an indicator of the specific early voting and Election Day voting site, for each early voting site (all days) and for each Election Day voting site, for each election conducted since 2006.

**REQUEST FOR PRODUCTION NO. 4:**

Documents sufficient to determine poll closing times, by location, for each early voting site (all days) and for each Election Day voting site, for each election conducted since 2006.

**REQUEST FOR PRODUCTION NO. 5:**

All documents and communications received or created by you relating to the type and amount of resources for voting at each early voting site (all days) and for each Election Day voting site, for each election conducted since 2006, including but not limited to, the type and number of machines, direct recording equipment, or ballot printers at each location.

Dated: December 20, 2013

Respectfully submitted,

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Dated: December 20, 2013

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*Attorneys for Plaintiffs in League of Women Voters of North Carolina, et al. v. North Carolina, et al.*

**CERTIFICATE OF SERVICE**

I, Julie A. Ebenstein, hereby certify that on **December 20, 2013**, I served Plaintiffs' **Joint Second Set of Requests for Production to Defendants Members of the North Carolina State Board of Elections** via email and Fed Ex to all named parties below:

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*\*appearing pursuant to Local Rule 83.1(d)*

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA; THE  
NORTH CAROLINA STATE BOARD OF  
ELECTIONS; and KIM W. STRACH, in her  
official capacity as Executive Director of the  
North Carolina State Board of Elections,

Defendants.

Civil Action No. 13-cv-861

**UNITED STATES' FIRST SET OF REQUESTS**  
**FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and the Scheduling Order entered by this Court on December 13, 2013 (ECF No. 30), Plaintiff United States of America requests that Defendants identify and produce the documents and items requested below for inspection and copying. Pursuant to Fed. R. Civ. P. 34, any substantive responses, responsive documents, objections, and accompanying privilege logs shall be served on counsel for the United States no later than February 3, 2014. This request is continuing in nature as provided by Rule 26(e) of the Federal Rules of Civil Procedure.

## **INSTRUCTIONS AND DEFINITIONS**

1. “Defendants” as used herein means the State of North Carolina, the North Carolina State Board of Elections, and Kim W. Strach, and includes any agents, representatives, employees, or other person acting or purporting to act on behalf of any Defendant.

2. “The State” or “North Carolina” as used herein means the State of North Carolina and any of its agents, representatives, employees, or other person acting or purporting to act on its behalf.

3. The “State Board of Elections” means the North Carolina State Board of Elections and any of its agents, representatives, employees, members, or other person acting or purporting to act on its behalf.

4. “HB 589” as used herein means North Carolina House Bill 589 (2013-2014 Legislative Session), which was signed into law on August 12, 2013 and is designated Session Law 2013-381.

5. “Legislator” as used herein means a current or former elected member of the North Carolina House of Representatives or the North Carolina State Senate, including employees, staff, interns, consultants, representatives, designees, agents, or any persons acting or purporting to act on behalf of the North Carolina House of Representatives or the North Carolina State Senate, any committee thereof, or any elected member of the North Carolina House of Representatives or the North Carolina State Senate.

6. “Absentee ballot voting” as used herein means voting pursuant to North Carolina General Statutes § 163-231, and includes the process of requesting and receiving an absentee ballot pursuant to North Carolina General Statutes §§ 162-230.1 and 163-230.2.

7. “Early voting” as used herein means one-stop voting pursuant to North Carolina General Statutes § 163-227.2.

8. “Out-of-precinct provisional ballot” as used herein means a provisional ballot cast by a voter who is voting in a precinct other than his or her precinct of residence.

9. “Same-day registration” or “same-day voter registration” as used herein means registration and voting at one-stop voting sites pursuant to North Carolina General Statutes § 163-82.6A.

10. The phrase “contested provisions of HB 589” as used herein refers to the following four sets of voting changes enacted as part of HB 589 (including HB 589 parts 2, 16, 25, and 49): (1) changes to the early voting period; (2) elimination of same-day voter registration during the early voting period; (3) prohibition of the counting of out-of-precinct provisional ballots; and (4) imposition of a new photo identification requirement for in-person voters.

11. “Document” as used herein is synonymous in meaning and scope to the term “document” as used under Federal Rule of Civil Procedure 34 and the phrase “writings and recordings” as defined in Federal Rule of Evidence 1001, and includes, but is not limited to, any computer discs, tapes, and printouts, emails, databases, and any

handwritten, typewritten, printed, electronically-recorded, taped, graphic, machine-readable, or other material, of whatever nature and in whatever form, including all non-identical copies and drafts thereof, and all copies bearing any notation or mark not found on the original.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. In responding to these requests, please produce all responsive documents in the possession, custody, or control of Defendants, or documents known to be available to Defendants, regardless of whether such documents are possessed directly by Defendants or past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on behalf of Defendants or subject to the Defendants’ control.

14. All references in these requests to an individual person or officer include any and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, predecessors in office or position, and all other persons or entities acting on behalf of or under the control of such a person.

15. All references in these requests to any governmental entity, or any other type of organization, include its past and present officers, executives, directors, employees, agents, representatives, attorneys, consultants, contractors, and all other persons acting or purporting to act on behalf of the entity.

16. All documents shall be produced as they are kept in the usual course of business or be organized and labeled to correspond to each request. For all documents

produced, please identify the names of the person from whose files the documents were produced.

17. If any part of the requested information is stored on computer disc, tapes, or in any other electronic form, and is responsive to the request, it should be provided in the electronic form, consistent with the parties' agreement on production of electronically stored information or any court order relating to electronically stored information.

18. Documents available only in paper or hardcopy format shall be scanned into electronic format and produced as TIFF or JPEG files, consistent with the parties' agreement on production of electronically stored information or any court order relating to electronically stored information.

19. No portion of a document request may be left unanswered because an objection is interposed to another part of that request. If the Defendants object to any portion of a document request, the Defendants must state with specificity the grounds of any objections. Any ground not stated is waived.

20. If production of any document referred to in these requests is refused based on the assertion of a claim of privilege, with respect to each such document, please produce a privilege log consistent with the parties' agreement or any court order. In the case of any document concerning any meeting or conversation, state the date and subject matter of such meeting or conversation, and identify the persons who attended the meeting or participated in the conversation.

21. In the event that a responsive document has been destroyed or has passed out of the Defendants' custody or control, please identify the following information with



respect to each such document: its title, date, author(s), sender(s), recipient(s), subject matter, the circumstances under which it has become unavailable, and, if known, its current location and custodian.

22. In the event that a responsive document is not available in the form requested but is available in another form or can be obtained, in whole or in part, from other data in Defendants' possession, custody, or control, please so state and either supply the information requested in the form in which it is available or supply the data from which the information requested can be obtained.

23. Original and all non-identical copies of responsive documents, including all drafts, must be produced. If Defendants are unable to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

24. In construing these requests, apply the broadest construction, so as to produce the most comprehensive response. Construe the terms "and" and "or" either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside that scope. Words used in the masculine gender include the feminine, and words used in the singular include the plural.

25. These document requests apply to the period from January 1, 2000 through the present, unless otherwise limited or expanded by a particular request.

### **DOCUMENT REQUESTS**

1. All documents produced in response to any request for production served upon any Defendant in *North Carolina State Conference of the NAACP, et al. v.*

*McCrory, et al.*, Case No.: 1:13-CV-658, or *League of Women Voters of North Carolina, et al. v. North Carolina, et al.*, Case No.: 1:13-CV- 660.

2. All current training and user manuals relating to entering, editing, and removing data (including but not limited to any data relating to changes in voter status or address) in the State Election Information Management System (“SEIMS”).

3. All data used by Defendants to produce matches of registered-voter data with data sources maintained by the North Carolina Division of Motor Vehicles (“NCDMV”), and all documents referring or relating to a comparison of North Carolina’s registered voter database with NCDMV records.

4. All databases or other documents that contain lists of North Carolina residents who are members of the United States armed forces, possess a veterans identification card issued by the United States Department of Veterans Affairs, possess a tribal enrollment card issued by a federally- or State-recognized tribe, or possess a United States passport.

5. All documents relating to the sources, drafting, development, consideration, analysis, or implementation of HB 589 and the procedural sequence of introduction, consideration, and enactment of HB 589, including but not limited to communications between or among Legislators, as well as between or among Legislators and their staff, lobbyists, consultants, groups, organizations, county election officials, the State Board of Elections, and/or members of the public.

6. All documents from January 1, 2005, to the present relating to communications between, among, or with the office of the Governor, the office of the

Lieutenant Governor, the office of the Attorney General, Legislators, the State Board of Elections, the North Carolina Department of Transportation, county election officials, lobbyists, groups, associations, organizations, or members of the public concerning the State's consideration of any proposal to change the number of days or hours of early voting, modify or eliminate same-day registration, modify the requirements for obtaining or casting an absentee ballot, modify the procedures for counting out-of-precinct provisional ballots, or require voters to produce identification for voting, including but not limited to the drafting, introduction, consideration, enactment, or implementation of HB 589.

7. All documents relating to any and all alternatives to HB 589 and/or amendments relating to the contested provisions of HB 589 that were presented to, or considered, assessed, or reviewed by any Legislator during the drafting or consideration of HB 589.

8. The complete legislative record relating to HB 589, including but not limited to: bill summaries and status reports; each draft of the bill; each amendment offered and the status of each such amendment (*i.e.*, adopted, rejected, tabled, etc.); roll call votes; legislative committee minutes and reports; video and audio recordings and transcripts of floor and committee debates; video and audio recordings and transcripts of hearings; reports, analyses, or other documents presented during floor debates and hearings; all public comments received; study reports; and all correspondence sent or received by any Legislator, or any legislative staff person, relating to HB 589 or to the subjects addressed therein.

9. All documents from January 1, 2005, to the present relating to any effect that HB 589, or any other proposal to change the number of days or hours of early voting, modify or eliminate same-day registration, modify the requirements for obtaining or casting an absentee ballot, modify the procedures for counting out-of-precinct provisional ballots, or require voters to produce identification for voting, has, will have, or was projected to have on voters on account of race or color, or members of a language minority group.

10. All documents relating to any data tracking, recording, or study of voting patterns by race, from January 1, 2005, to the present in North Carolina.

11. All documents from January 1, 2005, to the present relating to the effect that the contested provisions of HB 589, or any other proposal to change the number of days or hours of early voting, modify or eliminate same-day registration, modify the requirements for obtaining or casting an absentee ballot, modify the procedures for counting out-of-precinct provisional ballots, or require voters to produce identification for voting, has, will have, or was projected to have on election administration costs, including but not limited to the costs of implementing HB 589 or such other proposals.

12. All documents from January 1, 2005, to the present relating to the impact of HB 589, or any other proposal to change the number of days or hours of early voting, modify or eliminate same-day registration, modify the requirements for obtaining or casting an absentee ballot, modify the procedures for counting out-of-precinct provisional ballots, or require voters to produce identification for voting, has, will have, or was projected to have on voter turnout, voter registration, or waiting times at polls.

13. All documents from January 1, 2005, to the present relating to the impact that HB 589, or any other proposal to change the number of days or hours of early voting, modify or eliminate same-day registration, modify the requirements for obtaining or casting an absentee ballot, modify the procedures for counting out-of-precinct provisional ballots, or require voters to produce identification for voting, has, will have, or was projected to have on use and acceptance of provisional ballots.

14. Documents sufficient to show every form of photo identification currently required or explicitly permitted by State law, regulation, or official practice to be issued by the State of North Carolina and its political subdivisions to persons over the age of 18.

15. All documents relating to the number of registered voters in North Carolina who do not have one or more of the forms of photo identification acceptable to vote under HB 589.

16. All documents relating to policies and procedures under which a North Carolina driver's license or special identification card for non-operators must be surrendered, canceled, or suspended and relating to the policies and procedures for reinstatement of such documents.

17. Documents sufficient to show all steps that an eligible voter must complete in order to obtain each form of identification listed under Section 163-166.13 of the North Carolina General Statutes (as amended by HB 589), and the costs associated with each step.

18. All documents relating to the process necessary to obtain a birth certificate from the North Carolina Department of Health and Human Services, including but not

limited to cost, locations of offices, documents needed to establish identity, and duration of the process.

19. All documents relating to the State of North Carolina's determination of those specific forms of identification that constitute a "United States military identification card," a "Veterans Identification Card issued by the United States Department of Veterans Affairs for use at Veterans Administration medical facilities," a "tribal enrollment card issued by a federally recognized tribe," or a "tribal enrollment card issued by a tribe recognized by [the] State under Chapter 71A of the General Statutes" under Section 163-166.13 of the North Carolina General Statutes (as amended by HB 589).

20. All documents relating to allegations and/or prosecutions of:

- a) Voter impersonation or other in-person voter fraud that occurred in the State of North Carolina from January 1, 2000, to the present;
- b) Voting or registering to vote in North Carolina by persons who are not citizens of the United States from January 1, 2000, to the present;
- c) Voter registration fraud, including voter registration fraud involving same-day registration, that occurred in the State of North Carolina from January 1, 2000 to the present;
- d) Fraud involving absentee ballot voting that occurred in the State of North Carolina from January 1, 2000 to the present;

21. All documents relating to or relied upon by the State Board of Elections in preparing the report entitled "Documented Cases of Voter Fraud in North Carolina,"

dated March 11, 2013, as well as all previous versions of this report and any other reports issued by the State Board of Elections providing similar information, including all documents relied upon by the State Board of Elections in preparing such previous versions and other reports.

22. All documents relating to any comparison of the rate of address verification for same-day voter registration with the rate of address verification for other methods of voter registration in North Carolina.

23. All documents relating to the waiting time of voters during the 2006, 2008, 2010, and 2012 elections in North Carolina.

24. All documents relating to communications between county boards of election and the State Board of Elections regarding the number of days and/or hours of early voting from January 1, 2008 to the present, including the State Board of Elections' analyses of and responses to such communications.

25. All documents, including but not limited to all forms, instructions, procedures, manuals, and training materials, relating to administering provisional ballots, including but not limited to determining the validity and eligibility of provisional ballots cast by voters who do not present a requisite form of photo identification under HB 589.

26. From January 1, 2000, to the present, all documents, including but not limited to all reports, forms, instructions, procedures, manuals, and training materials, prepared, produced, presented, or relied upon by the State Board of Elections relating to early voting, same-day registration, out-of-precinct provisional ballots, absentee ballot

voting (excluding documents exclusively relating to absentee voting under the Uniformed and Overseas Citizens Absentee Voting Act), voter fraud, or voter photo identification.

27. All documents relating to any administrative regulations or procedures drafted, proposed, or finalized pertaining to HB 589, including but not limited to: State Register publications; notices of proposed rulemaking; all public comments received; economic impact assessments; fiscal notes; written opinions; meeting and hearing notices; agendas; minutes; reports; audits; correspondence; audio and/or video recordings and transcripts of public hearings; and documents relating to the State Board of Elections' submission of proposed final regulations to the Rules Review Commission for consideration and approval, and to the consideration of such proposed final regulations by the Rules Review Commission and the North Carolina General Assembly.

28. All documents detailing the manner in which the State of North Carolina will provide information to the public concerning HB 589's requirements, including but not limited to mailings sent to voters, newspaper advertisements and the dates and publications in which they were published, television or radio spots and the dates and channels on which they were broadcast, and documents provided to in-person voters who are unable to present a form of photo identification required by HB 589.

29. All documents relating to any effort to provide voters who do not possess the requisite photo identification under HB 589 with a form of identification accepted under HB 589, including but not limited to:

- a. Documents detailing the development of the processes and procedures that the State of North Carolina has established;



- b. Documents detailing the budget and source of funding for all training, voter education, and outreach to voters identified in response to subpart (a); and
- c. Documents detailing alternatives to those processes and procedures identified in subpart (a).

30. All documents relating to the introduction, drafting, consideration, enactment, and/or implementation of the following legislation, including communications between or among Legislators, as well as between Legislators and their staff, lobbyists, consultants, groups, organizations, county election officials, the State Board of Elections, and/or members of the public concerning such bills, as well as all documents relating to such bills that were presented to, produced by, transmitted to, or relied upon by the State of North Carolina, including but not limited to the Governor, the Lieutenant Governor, the Attorney General, and the State Board of Elections:

- a. House Bill 351, Senate Bill 352, House Bill 658, and Senate Bill 657 of the 2011-2012 Legislative Session of the North Carolina General Assembly;
- b. House Bill 91 (Session Law 2007-253) and Senate Bill 195 from the 2007-2008 Legislative Session of the North Carolina General Assembly;
- c. Senate Bill 133 (Session Law 2005-2) from the 2005-2006 Legislative Session of the North Carolina General Assembly; and

d. House Bill 977 (Session Law 2001-337) and Senate Bill 386 from the 2001-2002 Legislative Session of the North Carolina General Assembly.

31. All document retention policies, practices, and systems in place with respect to Defendants and all Legislators since January 1, 2011, including but not limited to any document hold or notice issued in connection with the above captioned case, *United States v. North Carolina, et al.*

Dated: December 31, 2013

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## **CERTIFICATE OF SERVICE OF DISCOVERY**

I hereby certify that on December 31, 2013, I served the foregoing **United States'**  
**First Set of Requests for Production of Documents** upon all counsel of record by  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA; THE  
NORTH CAROLINA STATE BOARD OF  
ELECTIONS; and KIM W. STRACH, in her  
official capacity as Executive Director of the  
North Carolina State Board of Elections,

Defendants.

Civil Action No. 13-cv-861

**UNITED STATES' SECOND SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and the Scheduling Order entered by this Court on December 13, 2013 (ECF No. 30), Plaintiff United States of America requests that Defendants identify and produce the documents and items requested below for inspection and copying. Pursuant to Fed. R. Civ. P. 34, any substantive responses, responsive documents, objections, and accompanying privilege logs shall be served on counsel for the United States no later than February 3, 2014. This request is continuing in nature as provided by Rule 26(e) of the Federal Rules of Civil Procedure.

## **INSTRUCTIONS AND DEFINITIONS**

1. “Defendants” as used herein means the State of North Carolina, the North Carolina State Board of Elections, and Kim W. Strach, and includes any agents, representatives, employees, or other person acting or purporting to act on behalf of any Defendant.

2. “The State” or “North Carolina” as used herein means the State of North Carolina and any of its agents, representatives, employees, or other person acting or purporting to act on its behalf.

3. The “State Board of Elections” means the North Carolina State Board of Elections and any of its agents, representatives, employees, members, or other person acting or purporting to act on its behalf.

4. “HB 589” as used herein means North Carolina House Bill 589 (2013-2014 Legislative Session), which was signed into law on August 12, 2013 and is designated Session Law 2013-381.

5. “Legislator” as used herein means a current or former elected member of the North Carolina House of Representatives or the North Carolina State Senate, including employees, staff, interns, consultants, representatives, designees, agents, or any persons acting or purporting to act on behalf of the North Carolina House of Representatives or the North Carolina State Senate, any committee thereof, or any elected member of the North Carolina House of Representatives or the North Carolina State Senate.

6. “Absentee ballot voting” as used herein means voting pursuant to North Carolina General Statutes § 163-231, and includes the process of requesting and receiving an absentee ballot pursuant to North Carolina General Statutes §§ 162-230.1 and 163-230.2.

7. “Early voting” as used herein means one-stop voting pursuant to North Carolina General Statutes § 163-227.2.

8. “Out-of-precinct provisional ballot” as used herein means a provisional ballot cast by a voter who is voting in a precinct other than his or her precinct of residence.

9. “Same-day registration” or “same-day voter registration” as used herein means registration and voting at one-stop voting sites pursuant to North Carolina General Statutes § 163-82.6A.

10. The phrase “contested provisions of HB 589” as used herein refers to the following four sets of voting changes enacted as part of HB 589 (including HB 589 parts 2, 16, 25, and 49): (1) changes to the early voting period; (2) elimination of same-day voter registration during the early voting period; (3) prohibition of the counting of out-of-precinct provisional ballots; and (4) imposition of a new photo identification requirement for in-person voters.

11. “Document” as used herein is synonymous in meaning and scope to the term “document” as used under Federal Rule of Civil Procedure 34 and the phrase “writings and recordings” as defined in Federal Rule of Evidence 1001, and includes, but is not limited to, any computer discs, tapes, and printouts, emails, databases, and any



handwritten, typewritten, printed, electronically-recorded, taped, graphic, machine-readable, or other material, of whatever nature and in whatever form, including all non-identical copies and drafts thereof, and all copies bearing any notation or mark not found on the original.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. In responding to these requests, please produce all responsive documents in the possession, custody, or control of Defendants, or documents known to be available to Defendants, regardless of whether such documents are possessed directly by Defendants or past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, or other persons or entities acting on behalf of Defendants or subject to the Defendants’ control.

14. All references in these requests to an individual person or officer include any and all past and present agents, advisors, employees, representatives, attorneys, consultants, contractors, predecessors in office or position, and all other persons or entities acting on behalf of or under the control of such a person.

15. All references in these requests to any governmental entity, or any other type of organization, include its past and present officers, executives, directors, employees, agents, representatives, attorneys, consultants, contractors, and all other persons acting or purporting to act on behalf of the entity.

16. All documents shall be produced as they are kept in the usual course of business or be organized and labeled to correspond to each request. For all documents

produced, please identify the names of the person from whose files the documents were produced.

17. If any part of the requested information is stored on computer disc, tapes, or in any other electronic form, and is responsive to the request, it should be provided in the electronic form, consistent with the parties' agreement on production of electronically stored information or any court order relating to electronically stored information.

18. Documents available only in paper or hardcopy format shall be scanned into electronic format and produced as TIFF or JPEG files, consistent with the parties' agreement on production of electronically stored information or any court order relating to electronically stored information.

19. No portion of a document request may be left unanswered because an objection is interposed to another part of that request. If the Defendants object to any portion of a document request, the Defendants must state with specificity the grounds of any objections. Any ground not stated is waived.

20. If production of any document referred to in these requests is refused based on the assertion of a claim of privilege, with respect to each such document, please produce a privilege log consistent with the parties' agreement or any court order. In the case of any document concerning any meeting or conversation, state the date and subject matter of such meeting or conversation, and identify the persons who attended the meeting or participated in the conversation.

21. In the event that a responsive document has been destroyed or has passed out of the Defendants' custody or control, please identify the following information with

respect to each such document: its title, date, author(s), sender(s), recipient(s), subject matter, the circumstances under which it has become unavailable, and, if known, its current location and custodian.

22. In the event that a responsive document is not available in the form requested but is available in another form or can be obtained, in whole or in part, from other data in Defendants' possession, custody, or control, please so state and either supply the information requested in the form in which it is available or supply the data from which the information requested can be obtained.

23. Original and all non-identical copies of responsive documents, including all drafts, must be produced. If Defendants are unable to produce the original of any document, please produce the best available copy and all non-identical copies, including drafts.

24. In construing these requests, apply the broadest construction, so as to produce the most comprehensive response. Construe the terms "and" and "or" either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside that scope. Words used in the masculine gender include the feminine, and words used in the singular include the plural.

25. These document requests apply to the period from January 1, 2000 through the present, unless otherwise limited or expanded by a particular request.

## **DOCUMENT REQUESTS**

1. All database dictionaries, code books, and user manuals related to the State Election Information Management System (SEIMS) and the North Carolina Department of Transportation driver license and special identification database(s).

2. The following data and lookup tables from the State's voter registration database, also known as the State Election Information Management System (SEIMS) and the supplemental information necessary to render the information in the database reasonably useable to undertake an analysis of the data, including all data columns in these tables:

- a. ADDRESS\_INFO
- b. NCID\_GEN
- c. VOTER\_ADDRESS\_CHANGES
- d. VOTER\_HISTORY
- e. VOTER\_REG
- f. VOTER\_REG\_CHANGES
- g. EPB\_ABSENTEE\_VOTER\_LIST
- h. EPB\_SITE\_INFO
- i. EPB\_VOTE\_INFO
- j. EPB\_VOTE\_INFO\_ARCHIVE
- k. EPB\_VOTER\_LIST
- l. EPB\_VOTER\_TRANSFER\_HISTORY
- m. EPB\_VOTER\_TRANSFER\_HISTORY\_AUDIT
- n. VOTER\_HISTORY\_ONE\_STOP
- o. PROVISIONAL\_VOTER
- p. PROVISIONAL\_VOTER\_ADDRESS
- q. PROVISIONAL\_ADDRESS\_INFO
- r. PROVISIONAL\_VOTER\_HISTORY
- s. GEOCODE
- t. LKT\_ABS\_REQUEST\_REASON
- u. LKT\_DELIVERY\_METHOD
- v. LKT\_ID\_VALIDATION\_TYPE
- w. LK\_CITY
- x. LK\_COUNTY
- y. LK\_ELECTION

z. LK\_ETHNICITY  
aa. LK\_FPCA\_REQUEST\_TYPE  
bb. LK\_GENDER  
cc. LK\_ID\_TYPE  
dd. LK\_JRS\_MUNICIPALITY  
ee. LK\_JRS\_PRECINCT  
ff. LK\_JRS\_VTD  
gg. LK\_JRS\_WARD  
hh. LK\_LANGUAGE  
ii. LK\_NAME\_SUFEX  
jj. LK\_ONE\_STOP\_REG\_TYPE  
kk. LK\_PARTY  
ll. LK\_PROVISIONAL\_NOT\_COUNTED\_REASONS  
mm. LK\_PROVISIONAL\_VOTING\_REASONS  
nn. LK\_RACE  
oo. LK\_SOURCE  
pp. LK\_STATE  
qq. LK\_STREET  
rr. LK\_STREET\_DIR  
ss. LK\_STREET\_SUFEX  
tt. LK\_STREET\_TYPE  
uu. LK\_VH\_ELECTION  
vv. LK\_VOTINGMETHOD  
ww. LK\_VR\_REASON  
xx. LK\_VR\_STATUS

3. For all database exports provided to the United States in this case, please provide all documents sufficient to explain coding rules and interpretation of each database field, including documents relating to:

- a) Data cleaning/editing/checking procedures applied to data after collection (*e.g.*, capitalization, range tests, white space, punctuation);
- b) Additional language/character set information;
- c) Additional field type information (*e.g.*, date format, number format);
- d) Internal field separators or parsing rules for combined fields;

- e) Missing data codes/default data entry values where response not supplied;
- f) Data purging rules (on what basis are subjects removed after collection);
- g) Coding/labeling (any code or label sets associated with response values, standard abbreviations used).

4. For all database exports produced in response to these requests, please include the unique voter identification numbers assigned to individual registered voters.

5. For every federal election from 2000 through 2012, the voter registration database as it existed immediately after each election (i.e., reflecting updated registration records).

6. All databases or documents sufficient to list all one-stop voting sites for each federal election from 2000 through 2012, including street addresses and opening/closing times.

7. All databases containing information on all voters who cast a provisional ballot for each federal election from 2000 through 2012, including information about why the provisional ballot was issued, its disposition, and the reason for its disposition.

Dated: December 31, 2013

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## **CERTIFICATE OF SERVICE OF DISCOVERY**

I hereby certify that on December 31, 2013, I served the foregoing **United States' Second Set of Requests for Production of Documents** upon all counsel of record by electronic mail, with the consent of the parties: and by placing a copy of same in the United States Mail, first class postage paid, to Defendants' counsel:

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

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

Plaintiffs,

v.

PATRICK LLOYD MCCRORY, in his official  
capacity as the Governor of North Carolina, et al.,

Defendants.

Civil Action No. 1:13-CV-658

LEAGUE OF WOMEN VOTERS OF NORTH  
CAROLINA, et al.,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

Civil Action No. 1:13-CV-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA; et al.,

Defendants.

Civil Action No. 1:13-CV-861

**PLAINTIFFS LEAGUE OF WOMEN VOTERS' FIRST INTERROGATORIES TO**  
**DEFENDANTS**

Plaintiffs League of Women Voters Group,<sup>1</sup> pursuant to Federal Rules of Civil Procedure 26 and 33, propound the following Interrogatories to Defendants the State of North Carolina, members of the State Board of Elections, and Governor Patrick L. McCrory (“Defendants”) to be answered in writing, under oath, and in accordance with the instructions and definitions below.

**INSTRUCTIONS**

1. These Interrogatories are continuing in nature and require timely supplementation.
2. These Interrogatories require the provision of all responsive information in Defendants’ possession, custody, or control, or known to be available to Defendants, regardless of whether such information is possessed directly by Defendants’ agents, advisors, officials, employees, representatives, attorneys, consultants, or other persons or entities acting on their behalf, subject to their control, or in any other way related to them.
3. If you object to any Interrogatory or any subpart thereof on the grounds that it calls for disclosure of information that you claim is privileged, or on any other grounds, then answer such Interrogatory or subpart as follows: (a) furnish all information and facts called for by such Interrogatory or subpart that you do not claim is privileged or that is otherwise non-objectionable; (b) identify the portion of the Interrogatory that you believe to be objectionable and the grounds for your objection; and (c) for each communication, recommendation, fact, or advice which you claim is privileged, state the basis for your claim of privilege.
4. When requested to “state each fact,” the “facts upon which you rely,” or “state the factual basis” relating to any allegation, fact, legal theory, contention, or denial, please furnish a full and

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<sup>1</sup> The League of Women Voters Group refers to Plaintiffs the League of Women Voters of North Carolina, A. Philip Randolph Institute, Unifour OneStop Collaborative, Common Cause North Carolina, Goldie Wells, Kay Brandon, Octavia Rainey, Sara Stohler, and Hugh Stohler.

complete statement of the factual basis of any such allegation, fact, legal contention, or denial, the reason or rationale that such facts so relate or pertain and how such facts so relate or pertain, and identify each person known to you or believed by you to be in possession of evidence of other facts relating to such allegation or contention.

5. Each Interrogatory is to be answered separately and as completely as possible. The omission of any name, fact, or other item of information from the answers shall be deemed a representation that such name, fact, or item is not known to you or counsel at the time of the service of your answer to the Interrogatory.

6. Unless otherwise indicated, these Interrogatories refer to the time, place, and circumstances of the occurrence(s) mentioned or complained of in the Complaint.

7. In responding to these Interrogatories, transcribe each Interrogatory or sub-part and, after each, provide its answer.

8. If, in lieu of or in addition to answering an Interrogatory, you produce a database and other data or reports, that material should be produced in a native format (such as a Microsoft Excel file or tab-delineated text file) that can be processed and/or sorted using standard spreadsheet or database software including Microsoft Access and Microsoft Excel.

9. A request to “identify” a natural person shall mean to state the following:

- a. the person's full name;
- b. the person's present or last known home address and telephone number;
- c. the person's present or last known employer, title, business address, and telephone number; and
- d. the person's employer at the time to which the interrogatory relates.

10. A request to “identify” an entity other than a natural person shall mean to state the

- a. the full name of the entity;
- b. the legal form of the entity (e.g., corporation, partnership, committee)
- c. a brief description of the nature and business purpose of the entity; and
- d. the present or last known address of the entity's principal office, principal place of business, and other places of business.

11. A request to “identify” a document shall mean to state the following:

- a. the date the document was prepared;
- b. the author(s) of the document;
- c. the identity of the addressees of the document;
- d. the identity of the persons or entities that received copies of the document;
- e. the subject matter and substance of the document;
- f. a description of the document (e.g., memorandum, letter, etc.); and
- g. the name and address of the custodian of the document.

12. In lieu of providing a full description of a document in accordance with the preceding paragraph, you may attach a copy of the document for which a description is requested, and in your answer to the Interrogatory provide only those items of description requested that do not appear on the face of the document.

13. The terms “and,” “or,” and “and/or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Interrogatory all responses that might otherwise be construed to be outside its scope.

14. Throughout these Interrogatories, including the definition of terms, words used in the masculine gender include the feminine, and words used in the singular include the plural.

15. In construing these Interrogatories, North Carolina shall apply the broadest construction, so as to produce the most comprehensive response.

16. All Interrogatories call for responses concerning the Relevant Time Period, as defined below, unless otherwise limited or expanded by a particular Interrogatory.

### **DEFINITIONS**

1. The term “Relevant Time Period” shall mean 2008 until the present.

2. The words “State,” “North Carolina,” “You,” “Your,” and all variants thereof, refer to Defendant the State of North Carolina, any of its agents, representatives, employees, as well as any person acting or purporting to act on its behalf.

3. The words “Governor,” “You,” “Your,” and all variants thereof, refer to Defendant the Governor Patrick L. McCrory, any of his agents, representatives, employees, as well as any person acting or purporting to act on his behalf including Executive Officials as defined below.

4. The words “State Board of Elections,” “SBOE,” “You,” “Your,” and all variants thereof, refer to members of the North Carolina State Board of Elections Defendants Joshua B. Howard, Rhonda K. Amoroso, Joshua D. Malcolm, Paul J. Foley, and Maja Kricker, acting individually or collectively in an official capacity and any of its agents, representatives, employees, as well as any person acting or purporting to act on its behalf including Executive Officials as defined below.

5. The term “Document” is defined to be synonymous in meaning and scope as the term “document” is used in Federal Rule of Civil Procedure 34 and the phrase “writings and recordings” is defined in Federal Rule of Evidence 1001, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, data sheets, Databases, data

compilations, schematics, drawings, diaries, logs, specifications, brochures, product or service descriptions, periodicals, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, surveys, indices, telephone calls, meeting minutes, electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, invoices, agreements, corporate resolutions, minutes, books, binders, accounts, photographs, and business records. This shall include all non-identical copies, no matter how prepared; all drafts prepared in connection with such Documents; and any deleted or erased Documents that may be retrieved from hard drives, floppy disks, electronic back-up files, or any other back-up systems, regardless of location, together with all attachments thereto or enclosures therewith, in Defendants' possession, custody, or control, or that of their attorneys, employees, agents, or representatives.

6. The term "Database" means any data sets, reports, programs, and files accessible by computer that contain data that can be processed and/or sorted using standard spreadsheet or database software (including Microsoft Access and Microsoft Excel). As the term "Database" is included within the definition of "Document," any omission of that term from an Interrogatory shall not relieve Defendants of their duty to describe relevant Databases in their response.

7. The term "Communications" means all occasions on which information is conveyed from one person to another by any means, including by Document, or later memorialized in a Document, including memoranda of conversations, correspondence, data processing, pictures, or recordings.

8. The term "person" shall include, whenever appropriate, not only a natural person, but also a corporation, partnership, unincorporated association, joint venture, or other association of persons, and also a governmental agency, office, administration, board or other body.

9. The term “Executive Official” means an elected or appointed person in the executive branch, any executive branch agency, and any independent agencies or officials that have power to act on behalf of North Carolina, including any employees, staff, interns, representatives, designees, agents, or any person acting or purporting to act on such person’s, agency’s, or official’s behalf.

10. The term “General Assembly” means all members of the North Carolina General Assembly acting in their official capacity and all members’ employees, agents or representatives, and all employees, agents, or representatives of the North Carolina General Assembly. “General Assembly” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the North Carolina General Assembly, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

11. The term “Legislator” means an elected member of the North Carolina House of Representatives or the North Carolina Senate, including any employees, staff, interns, representatives, designees, agents, or any person acting or purporting to act on a Legislator’s behalf or on behalf of the General Assembly, as well as committee, agency, or other group of Legislators.

12. The term “the Act” refers to the “Voter Information Verification Act,” H.B. 589, which was signed into law on August 12, 2013 and is codified at Chapter 2013-381, Laws of North Carolina.

13. Consistent with ¶ 26 of the Complaint, the term “Early Voting” means the seventeen (17) day period prior to Election Day starting on the third Thursday before an election and ending on the Saturday before an election, that had been the law from 2001 until the enactment of H.B. 589.



14. Consistent with ¶ 30 of the Complaint, the term “Early Voting Changes” means the changes enacted in Part 25 of H.B. 589, including all related rules, regulations, and directives, which cuts off a full week of early voting period, including the first Sunday of Early Voting, which was the Sunday sixteen (16) days prior to Election Day.

15. Consistent with ¶ 43 of the Complaint, the term “Same Day Registration,” or “One Stop Voting” means allowing for voters to register to vote during the early voting period.

16. Consistent with ¶ 47 of the Complaint, the term “Changes to Same Day Registration” means the changes enacted in Part 16 of H.B. 589 including all related rules, regulations, and directives, which prohibit Same Day Registration during Early Voting.

17. Consistent with ¶ 51 of the Complaint, the term “Out of Precinct Voting,” means allowing voters who go to vote in a precinct to which he or she is not assigned, or to an incorrect precinct, to cast a provisional ballot, which ballot would be counted for all ballot items on which the individual was eligible under state or federal law to vote.

18. Consistent with ¶ 55 of the Complaint, the term “Changes to Out of Precinct Voting” means the changes enacted in Part 49.3 of H.B. 589, including all related rules, regulations, and directives, which provides that provisional ballots “shall not be counted if the voter did not vote in the proper precinct,” even when the voter casting the provisional ballot is eligible under state or federal law to vote on certain items on that ballot.

19. The term “Changes to Poll Observers” means the changes enacted in Part 11 of H.B. 589, including all rules, regulations, and directives concerning the number of poll observers that are permitted in the voting enclosure during Early Voting or on Election Day.

20. The term “Changes to Photo Identification Requirements” means the changes enacted in Parts 2 and 3 of H.B. 589, including all rules, regulations, and directives concerning the photo identification requirement to vote in-person.

21. The term “early in-person voting” means casting or attempting to cast a ballot in person prior to Election Day at a location designated by the appropriate elections official.

22. The term “election” means any and all elections in North Carolina, including primary elections, presidential preference primary elections, and general elections, for state and federal offices.

23. The term “voter” means any person who is eligible to register to vote, registers to vote, seeks to register to vote, casts or attempts to cast an in-person early vote, casts or attempts to cast an absentee vote, or casts or attempts to cast an in-person vote on Election Day.

24. The term “including” means including but not limited to.

25. The terms “concerning,” “relates,” and “relating to,” means containing, contained in, referring to, referencing, regarding, embodied in, embodying, constituting, defining, discussing, reflecting, identifying, stating, dealing with, or in any way pertaining to.

26. The term “describe” means to set forth in detail all known facts and circumstances related to the subject of the Interrogatory, including the date, time, and place of any oral or written statement, conversation, report, study, or meeting, the identity of the participants, and the substance and purpose of the events or communications so described.

27. The term “Complaint” means the Complaint in the above-captioned action, and any and all subsequent amendments thereto.

28. The term “Voting Changes” means the Changes to Early Voting, Changes to Same Day Registration, Changes to Out of Precinct Voting, Changes to Poll Observers, and Changes to Photo Identification Requirements.

### **INTERROGATORIES**

1. Identify each person who advocated either in favor of or in opposition to the Voting Changes, including the provisions concerning Changes to Early Voting, Changes to Same Day Registration, Changes to Out of Precinct Voting, Changes to Poll Observers, and Changes to Photo Identification Requirements, before any Legislator, Executive Official or staffer, or the State Board of Elections and its staff, and describe each such person’s involvement in this regard.

2. Identify and describe in detail any reasons, justifications, rationales, interests, and/or purposes that Defendants contend are advanced by passage and implementation of the Voting Changes, including the provisions concerning Changes to Early Voting, Changes to Same Day Registration, Changes to Out of Precinct voting, Changes to Poll Observers, and Changes to Photo Identification Requirements.

3. Identify and describe the information, facts, Documents, and witnesses that would support a claim that any of the Voting Changes will occasion a costs savings with regard to the administration of elections.

4. Identify and describe all information, facts, Documents, and witnesses that support Defendants’ contention in *League of Women Voters Defs.’ Answer* ¶¶ 79 - 80<sup>2</sup> denying that “[a] motivating purpose behind [H.B. 589] was to suppress the turnout and electoral participation of African-American voters,” Compl. ¶ 79.

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<sup>2</sup> *League of Women Voters Defs.’ Answer* refers to Case 1:13-CV-00660, ECF No. 26.

5. Identify and describe all information, facts, Documents, and witnesses that Defendants contend support their allegations in *League of Women Voters Defs.*’ Answer ¶¶ 89, 93, 97 that under the totality of the circumstances, the three challenged Voting Changes will not result in the dilution of African-American voting strength.

6. Identify and describe all information, facts, Documents, and witnesses that Defendants contend support their allegations in *League of Women Voters Defs.*’ Answer ¶¶ 88, 92, 96 that the challenged Voting Changes will not “interact with social and historical conditions . . . to cause inequality in the opportunities enjoyed by African-American and white voters to elect their preferred representatives,” Compl. ¶ 88.

7. Identify and describe all reasons, justifications, rationales, interests, and/or purposes that relate to the inclusion in the Early Voting Changes of the elimination of the first Sunday of Early Voting, including any information, facts, Documents, and witnesses that indicate that, prior to the enactment of the Early Voting Changes, this particular Early Voting Day was in any manner interfering with or burdening the conduct of elections.

8. If North Carolina denies that the legislature enacted H.B. 589 “with minimal public debate on an extremely compressed legislative schedule, with the bill passing both houses of the legislature after only two days of debate on its full contents,” Compl. ¶ 80; *see League of Women Voters Defs.*’ Answer ¶ 80, identify bills enacted during the 2008 to 2013 legislative sessions that followed a comparable compressed legislative schedule.

9. If North Carolina contends that voters experiencing poverty do not have limited access to transportation, *see League of Women Voters Defs.*’ Answer ¶¶ 40, 42 (denying that Early Voting eases the burden of going to the polls for voters with limited means), identify and describe the information, facts, Documents, and witnesses on which this contention is based.

10. If North Carolina contends that African-American voters do not rely disproportionately on Early Voting, Same Day Registration and Out of Precinct Voting, or that Early Voting Changes, Same Day Registration Changes and Out of Precinct Ballot Changes will not impact voter participation or voter turnout for African-American voters, identify and describe all information, facts, Documents, and witnesses on which this contention is based.

11. Identify and describe all past incidents, complaints, allegations, or investigations into acts of voting fraud, voter registration fraud, impropriety, or other misconduct that relates in any way to any of the Voting Changes.

12. Identify the Early Voting polling places and hours of operation, including the time that the last ballot was cast in each polling place, for each county in North Carolina during the 2010 and 2012 elections.

Dated: January 23, 2014

Respectfully submitted,

By: /s/ Allison J. Riggs

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## **CERTIFICATE OF SERVICE**

I, Dale Ho, hereby certify that on January 23, 2014, I served Plaintiffs' **First Set of Interrogatories** to **Defendants** via email and UPS to all named parties below:

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Respectfully Submitted,

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

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

Plaintiffs,

v.

PATRICK LLOYD MCCRORY, in his official  
capacity as the Governor of North Carolina, et al.,

Defendants.

Civil Action No. 1:13-CV-658

LEAGUE OF WOMEN VOTERS OF NORTH  
CAROLINA, et al.,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

Civil Action No. 1:13-CV-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA; et al.,

Defendants.

Civil Action No. 1:13-CV-861



**PLAINTIFFS' JOINT THIRD SET OF REQUESTS FOR PRODUCTION TO  
DEFENDANTS MEMBERS OF THE NORTH CAROLINA STATE BOARD OF  
ELECTIONS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the North Carolina NAACP, et al., and the League of Women Voters, et al., (collectively, the “Plaintiffs”) jointly submit their third set of requests for the production of documents to Kim Westbrook Strach, in her official capacity as Executive Director of the North Carolina State Board of Elections; Joshua B. Howard, in his official capacity as Chairman of the North Carolina State Board of Elections; Rhonda K. Amoroso, in her official capacity as Secretary of the North Carolina State Board of Elections; Joshua D. Malcolm, in his official capacity as a member of the North Carolina State Board of Elections; Paul J. Foley, in his official capacity as a member of the North Carolina State Board of Elections; and Maja Kricker, in her official capacity as a member of the North Carolina State Board of Elections (collectively, “Defendants”). In accordance with Rule 34, Defendants shall respond to these requests for production and shall produce the documents requested. Responses to the *NAACP* Plaintiffs are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, and are due within thirty days of service of these requests for production. Responses to the *League of Women Voters* Plaintiffs are to be served to American Civil Liberties Union, 125 Broad St., 18<sup>th</sup> Fl., New York, NY 10004, to the attention of Dale Ho, and are due within thirty days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

**INSTRUCTIONS**

1. If Defendants object to any part of a request, set forth the basis for your objection and respond to all parts of the request to which you do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to Defendants or subject to your reasonable access or control. Documents requested are those in the actual or constructive possession or control of the Defendants, your attorneys, investigators, experts, and anyone else acting on the Defendants' behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Defendants' possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Defendants' possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Defendants' continuing obligation to supplement their production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that Defendants obtain after Defendants serve Defendants’ answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any

portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

### **DEFINITIONS**

1. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

2. “Defendants” means Kim Westbrook Strach, in her official capacity as Executive Director of the North Carolina State Board of Elections; Joshua B. Howard, in his official capacity as Chairman of the North Carolina State Board of Elections; Rhonda K. Amoroso, in her official capacity as Secretary of the North Carolina State Board of Elections; Joshua D. Malcolm, in his official capacity as a member of the North Carolina State Board of Elections; Paul J. Foley, in his official capacity as a member of the North Carolina State Board of Elections; and Maja Kricker, in her official capacity as a member of the North Carolina State Board of Elections. “Defendants” also shall include all of your employees, agents, or representatives, your counsel, and all employees, agents, or representatives of counsel. “Defendants” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the North Carolina State Board of Elections, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

3. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data

processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Defendants' possession, custody or control, including all drafts of all such documents, and all documents Defendants have provided to Defendants' counsel. Defendants are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

4. "Registered voter" shall mean all persons registered to vote in the State of North Carolina's database or other records maintained by the State.

5. "Relating to" as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

### **REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

Copies of all ballots used in every election (including primaries and general elections) since 2003 in North Carolina's five most populous counties: Wake, Mecklenburg, Guilford, Forsyth, and Cumberland.

#### **REQUEST FOR PRODUCTION NO. 2:**

Documents sufficient to determine the total number of registered voters and ballots cast, broken down by race, during each general federal election back to and including the 1996 general election, to the present.

Dated: January 23, 2014

Respectfully submitted,

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Dated: January 23, 2014

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**CERTIFICATE OF SERVICE**

I, Dale Ho, hereby certify that on January 23, 2014, I served Plaintiffs' **Third Set of Requests for Production to Defendants Members of the North Carolina State Board of Elections** via email and UPS to all named parties below:

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

NORTH CAROLINA STATE CONFERENCE OF )  
THE NAACP, EMMANUEL BAPTIST CHURCH, )  
NEW OXLEY HILL BAPTIST CHURCH, )  
BETHEL A. BAPTIST CHURCH, COVENANT )  
PRESBYTERIAN CHURCH, CLINTON )  
TABERNACLE AME ZION CHURCH, )  
BARBEE'S CHAPEL MISSIONARY BAPTIST )  
CHURCH, INC., ROSANELLE EATON, )  
ARMENTA EATON, CAROLYN COLEMAN, )  
BAHEEYAH MADANY, JOCELYN FERGUSON- )  
KELLY, FAITH JACKSON, MARY PERRY and )  
MARIA PALMER, )

Plaintiffs, )

v. )

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official )  
capacity as the Governor of North Carolina, KIM )  
WESTBROOK STRACH, in her official capacity as )  
Executive Director of the North Carolina State )  
Board of Elections, JOSHUA B. HOWARD, in his )  
official capacity as Chairman of the North Carolina )  
State Board of Elections, RHONDA K. AMOROSO, )  
in her official capacity as Secretary of the North )  
Carolina State Board of Elections, JOSHUA D. )  
MALCOLM, in his official capacity as a member of )  
the North Carolina State Board of Elections, PAUL )  
J. FOLEY, in his official capacity as a member of )  
the North Carolina State Board of Elections and )  
MAJA KRICKER, in her official capacity as a )  
member of the North Carolina State Board of )  
Elections, )

Defendants. )

**NAACP PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANTS**

Pursuant to Federal Rule of Civil Procedure 33, Plaintiffs North Carolina State  
Conference of the NAACP, Emmanuel Baptist Church, New Oxley Hill Baptist Church, Bethel

A. Baptist Church, Covenant Presbyterian Church, Clinton Tabernacle Ame Zion Church, Barbee's Chapel Missionary Baptist Church, Inc, Rosanell Eaton, Armenta Eaton, Carolyn Coleman, Baheeyah Madany, Jocelyn Ferguson-Kelly, Faith Jackson, Mary Perry, and Maria Palmer ("Plaintiffs") hereby serve upon Defendants Patrick Lloyd McCrory and the State Board of Elections, in their official capacities, the following interrogatories. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, North Carolina 27516, to the attention of Adam Stein and other counsel that have made an appearance within thirty days of service of these interrogatories. Each interrogatory is subject to the Instructions and Definitions that precede the specific interrogatories.

### **INSTRUCTIONS**

1. In answering these interrogatories, furnish all information, however obtained, including hearsay, that is available to Defendants, including information in the actual or constructive possession of Defendants, its attorneys, investigators, experts, and anyone else acting on Defendants' behalf. In answering the interrogatories, furnish all knowledge and information available to you or subject to your reasonable inquiry, access, or control, including, but not limited to, all knowledge and information available to your counsel in this case.

2. If you cannot answer all or part of an interrogatory after exercising due diligence to secure the full information to do so, state and answer to the extent possible, specifying your inability to answer the remainder; stating whatever information or knowledge you have concerning the unanswered portion; and detailing what you did in attempting to secure the unknown information.

3. If you object to an interrogatory, set forth the basis for your objection and respond to all parts of the interrogatory to which you do not object.

4. If any privilege is claimed as a ground for not answering any interrogatory in full, provide all the information necessary to support the claim of privilege.

5. These interrogatories are continuing in nature, up to and during the course of trial. Information sought by these interrogatories that becomes available after you serve your answers must be disclosed to counsel for Plaintiffs by supplementary answer or answers.

6. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

7. The connective “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of an interrogatory all responses that otherwise might be construed to be outside its scope.

8. A reference to an entity in these requests shall be construed to include its officers, directors, partners, members, managers, employees, representatives, agents, consultants, or anyone acting on its behalf.

#### **DEFINITIONS**

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during One-Stop Early Voting.

2. “Any” and “all” shall be construed to mean “any and all.”

3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

4. “Complaint” shall mean the Second Amended Complaint filed by Plaintiffs in *NAACP et al. v. McCrory et al.*, Case No. 1:13-CV-658.

5. “Describe” means to explain with particularity.

6. “Early Voting” shall mean one-stop voting whereby a registered voter goes to

their county board of elections or an alternative location to vote prior to Election Day and includes those changes enacted in Part 25 of H.B. 589, including all rules, regulations, and directives concerning one-stop voting.

7. "Election Law Legislation" shall refer to any proposed or enacted legislation concerning one-stop or early voting, same-day registration, a photo identification requirement to vote, pre-registration of voters, out-of-precinct voting, poll observers, or straight party voting and includes, but is not limited to, H.B. 589.

8. "Employee" shall mean any person who receives payment in connection with performing duties related to the Office of the Governor or the State Board of Elections.

9. "H.B. 589" shall refer to Session Law 2013-381/House Bill 589 passed by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

10. "Identify," when used in reference to a person means to state his or her full name, present or last known address, occupation, title, and business affiliation. If the person is a corporation or other business entity, state its full name and address.

11. "Identify," when used in reference to a document, means to state: (a) its date; (b) its author; (c) its addresses; (d) the nature of the document (e.g., including but not limited to letter, telegram, memorandum, computer print-out, chart, report, schedule, graph, calendar, handwritten note, diary, e-mail, appointment book, log, telephone message note, computerized data file, text message, photograph, etc.); and (e) the present location or custodian of the document. If any document was, but no longer is, in your possession or subject to your control, state: (a) what disposition was made of it; (b) the date thereof; (c) the person responsible for making the decision as to such disposition; (d) the reason for its disposition; and (e) the person responsible for carrying out such disposition.

12. “Including” shall be construed to mean “including but not limited to.”

13. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on Election Day or during One-Stop Early Voting.

14. “Out of Precinct Voting” shall refer to to the practice of allowing voters to cast a provisional ballot in the wrong precinct and includes the changes enacted in Part 49.3 of H.B. 589, including all related rules, regulations, and and directives concerning the prohibition on counting provisional ballots that were cast in the wrong precinct.

15. “Photo Identification Requirement” shall refer to the requirement to present photo identification to vote as enacted in Parts 2 and 3 of H.B. 589, including all rules, regulations, and directives concerning the photo identification requirement to vote in-person.

16. “Person” means not only natural persons, but also firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, trusts, groups, and organizations; federal, state, or local governments or government agencies, offices, bureaus, departments, or entities; other legal, business, or government entities; and all subsidies, affiliates, divisions, departments, branches, and other units thereof or any combination thereof.

17. “Poll Observers” shall refer to those persons that are designated as poll observers or at-large observers by the chairs of each political party in the state and are permitted to be in the voting enclosure during Early Voting or on Election Day and further includes the changes enacted in Part 11 of H.B. 589, including all related rules, regulations, and directives.

18. “Pre-Registration of Voters” shall refer to the pre-registration of persons at least 16 years of age to vote, before this practice was repealed by Part 12 of H.B. 589.

19. “Relating to,” “regarding,” or “concerning” and their cognates are to be understood in their broadest sense, and shall be construed to include pertaining to, commenting on, regarding, memorializing, recording, setting forth, describing, evidencing, or constituting.

20. “Same-Day Registration” shall refer to the practice of allowing qualified voters to register to vote in person and then vote at one-stop voting sites located in each county, before this practice was repealed by Part 16 of H.B. 589. .

21. “Straight Party Voting” refers to the practice of allowing voters to cast one vote in order to vote for a party’s nominees for all offices, before this practice was eliminated by Part 32 of H.B. 589.

22. “Voter” shall mean any registered voter in the state of North Carolina and all persons who may properly register to vote by the close of discovery in this case.

23. “You” and “your” means Governor Patrick Lloyd McCrory, in his official capacity as the Governor of North Carolina, and all of his employees, agents, or representatives and the North Carolina State Board of Elections, in its official capacity, including all of its employees, agents, or representatives.

24. “Your Office” shall mean the offices of the Governor of North Carolina and the North Carolina State Board of Elections, respectively, and their related functions and personnel.

## **INTERROGATORIES**

### **INTERROGATORY NO. 1:**

Identify all current or former employees of Your Office involved in evaluating, analyzing, studying, considering, drafting, and/or implementing any provision of H.B. 589 concerning the Photo Identification Requirement, Early Voting, Poll Observers, Out-of-Precinct Voting, Same-Day Registration, Straight Party Voting, and Pre-Registration of Voters, including

for each, their name, title, and job responsibilities.

**INTERROGATORY NO. 2:**

Identify all Department of Transportation employees involved in the implementation of any provision in H.B. 589 concerning the Photo Identification Requirement, Early Voting, Poll Observers, Out-of-Precinct Voting, Same-Day Registration, Straight Party Voting, and Pre-Registration of Voters, including for each, their name, title, and job responsibilities, and position in the overall organizational structure of the Department of Transportation.

**INTERROGATORY NO. 3:**

Identify each agency in the State of North Carolina involved in the implementation of the provisions of H.B. 589 concerning the Photo Identification Requirement, Early Voting, Poll Observers, Out-of-Precinct Voting, Same-Day Registration, Straight Party Voting, and Pre-Registration of Voters, including for each a brief description of their role.

**INTERROGATORY NO. 4:**

Identify any legislators, state or local elections officials, legislative aids, lobbyists, interest groups, political organizations, or other elected officials with whom You communicated about any Election Law Legislation proposed during the 2013 session of the North Carolina General Assembly.

**INTERROGATORY NO. 5:**

Identify each current or former employee of Your Office, or person acting on its behalf, who was involved in obtaining or supplying data related to any Election Law Legislation proposed during the 2013 legislative session.



**INTERROGATORY NO. 6:**

State how much money has been allocated in North Carolina's state budget for the implementation of H.B. 589, including a description of any money that has been earmarked for a particular provision and why.

**INTERROGATORY NO. 7:**

Identify any efforts the North Carolina Board of Elections has undertaken, or intends to undertake, to assist voters in obtaining permissible photo identification to vote, or the underlying documents needed to procure permissible photo identification to vote, as provided for in N.C.G.S. § 163-166.13(e).

**INTERROGATORY NO. 8:**

Identify any efforts the Board of Elections has undertaken, or intends to undertake, to educate voters about any provision in H.B. 589 concerning the Photo Identification Requirement, Early Voting, Poll Observers, Out-of-Precinct Voting, Same-Day Registration, Straight Party Voting, and Pre-Registration of Voters.

**INTERROGATORY NO. 9:**

State how much money the Board of Elections has allocated, budgeted, or spent to operate Early Voting in each election from 2006 to the present, and how much money the Board of Elections expects to allocate, budget, or spend to operate early voting from 2014 forward.

**INTERROGATORY NO. 10:**

Explain how costs are allocated between the State Board of Elections and the County Boards of Elections with respect to the expenses incurred in organizing, planning, and holding a local, state, or federal election in North Carolina.

**INTERROGATORY NO. 11:**

Describe what action, if any, You have taken with respect to the Rule-Making Petition submitted to the State Board of Elections by William R. Gilkeson, Jr. on December 18, 2013, which requests the adoption of three proposed rules to implement S.L. 2013-381.

Dated: January 31, 2014

Respectfully submitted,

By: /s/ Adam Stein

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**CERTIFICATE OF SERVICE**

I, Daniel T. Donovan, hereby certify that on **January 31, 2014**, I served **NAACP Plaintiffs'**

**First Set of Interrogatories to Defendants** via email and Fed Ex to all named parties below:

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**CERTIFICATE OF SERVICE**

I, Daniel T. Donovan, hereby certify that on **December 4, 2013**, I served **Plaintiffs' Notice of Subpoenas and Plaintiffs' Subpoena to Produce Documents, Information, or Objects and First Set of Requests for Production** to the following parties: **Senator Tom Apodaca, Representative James Boles, Jr., Representative David Lewis, Representative Tim Moore, Representative Tom Murry, Representative Larry Pittman, Senator Bob Rucho, Representative Ruth Samuelson, Representative Thom Tillis, Representative Harry Warren, Senator Phil Berger, Senator Thom Goolsby, Senator Ralph Hise, The Civitas Institute, The John Locke Foundation, the North Carolina Department of Transportation, and The Voter Integrity Project.** Notice has been sent via email to all named parties below:

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