

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 21 CVS 015426
No. 21 CVS 500085

NORTH CAROLINA LEAGUE OF CONSERVATION
VOTERS, INC., *et al.*,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

REBECCA HARPER, *et al.*,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

COMMON CAUSE,

Plaintiff,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

**HARPER PLAINTIFFS’
MOTION TO COMPEL
RESPONSES TO SECOND
SET OF
INTERROGATORIES AND
FIRST SET OF REQUESTS
FOR PRODUCTION**

Pursuant to North Carolina Rule of Civil Procedure 37, *Harper* Plaintiffs move to compel responses to their Second Set of Interrogatories and their First Set of Requests for Production to Legislative Defendants. Those discovery requests seek information about the enacted 2021 Plans that is the mirror image of the information this Court ordered *NCLCV* Plaintiffs to produce with respect to their “optimized maps,” namely, information about who participated in drawing the maps, as well as inputted and outputted data associated with the maps, including any analysis of each map’s characteristics. Plaintiffs request that the Court order Legislative Defendants to produce this information by December 28 at 9 a.m.

BACKGROUND

In its December 20, 2021 order on Legislative Defendants’ motion for reconsideration, this Court ordered *NCLCV* plaintiffs, by December 23 at 5 p.m., to “identify any and all persons who took part in drawing or participated in the computerized production of the Optimized Maps,” and to produce to Legislative Defendants “the method and means by which the Optimized Maps were formulated and produced, including, but not limited to all source code, source data, input parameters, and all outputted data associated with the Optimized Maps.” 12/20/21 Order at 4. The Court explained that, while such data were not proper *expert* discovery, they were properly the subject of *fact* discovery because *NCLCV* Plaintiffs had requested that the Court order use of the Optimized Maps.

The next morning, *Harper* Plaintiffs served discovery requests seeking the same information about the enacted 2021 Plans. *See* Exs. A, B. In particular, *Harper* Plaintiffs issued interrogatories asking Legislative Defendants to identify all persons who took part in drawing the 2021 Plans in any way, including by advising Legislative Defendants on those plans, and including any outside consultants or advisors. Ex. A at 4. *Harper* Plaintiffs also sought all

documents or data that Legislative Defendants or others who participated in the mapdrawing relied on, including in particular all source or inputted data and all analysis. Ex. A at 4 (interrogatory requesting identification of such material); Ex. B at 4 (request for production of such material). *Harper* Plaintiffs sought this information by December 23 at 5 p.m., the same deadline that the Court gave to the *NCLCV* Plaintiffs.

Legislative Defendants failed to respond. On December 24, Plaintiffs wrote to ask Legislative Defendants why they had failed to respond, noting that the information sought was the same information that the Court had ordered the *NCLCV* Plaintiffs to produce concerning their Optimized Maps, and asking if Legislative Defendants intended to invoke legislative privilege. Legislative Defendants responded via email that, under Rule 33 and 34, their responses were not due until 30 days after service unless the Court shortens the time—i.e., until after the trial in this case. Ex. C. (Legislative Defendants had never previously suggested to Plaintiffs that they believed the ordinary timelines for discovery to govern this case and did not so advise Plaintiffs after receiving the discovery requests on December 21.) Legislative Defendants further responded that the “information requested in the discovery requests is publicly available” on the General Assembly’s website and YouTube. *Id.*

ARGUMENT

Legislative Defendants do not dispute that Plaintiffs are entitled to the requested discovery, which seeks exactly the same information about the 2021 Plans—i.e., the plans actually at issue in this case—that Legislative Defendants already obtained about the *NCLCV* Plaintiffs’ Optimized Maps. Nor have they indicated that they are invoking any privilege.

Neither of Legislative Defendants’ two proffered reasons for refusing to respond to the interrogatories and document request is legitimate. First, as to their complaint about timing, it is

entirely improper in the context of this case for Legislative Defendants to sandbag Plaintiffs by taking the position, after the deadline Plaintiffs provided for a response has passed and on a national holiday, that their responses are not due until after the trial is over absent an order from the Court. Legislative Defendants have demanded discovery from Plaintiffs via email, without even serving formal discovery requests, on expedited timelines.

In any event, this Court should simply order Legislative Defendants to respond by December 28 at 9 a.m. Plaintiffs are already suffering significant prejudice as a consequence of Legislative Defendants' failure to respond in time for the deposition of Representative Hall, which is taking place today. Senator Hise's deposition is scheduled for December 29.

Legislative Defendants also stated that "the information requested in the discovery requests is publicly available at www.ncleg.gov and YouTube ([NCGA Redistricting - YouTube](#))." Ex. C. This is, of course, not true. There is no list on the General Assembly website or on YouTube identifying all of the people who were involved in drawing the 2021 Plans. In any event, Rule 33 requires parties to answer interrogatories "in writing under oath," and requires the answers "to be signed by the person making them." An unsworn email from counsel is not a proper response, especially an email taking a position that is patently false.

Plaintiffs also requested the identification and production of all source data used in drawing the 2021 Plans and all outputs, including analysis of the 2021 Plans by Legislative Defendants, their aides or consultants, or anyone else involved in drawing the plans. That material is, of course, not all publicly available. If it is, Rule 33 requires each Legislative Defendant to identify those materials, indicate where they are available via specific hyperlink to each document, and importantly, to swear that they did not rely on any additional material.

CONCLUSION

Plaintiffs respectfully request that the Court order Legislative Defendants to fully respond to the interrogatories and document requests, which simply seek the same information about the 2021 Plans that Legislative Defendants sought about the *NCLCV* Plaintiffs' Optimized Maps, by December 28 at 9 a.m.

Respectfully submitted, this the 27th day of December, 2021.

By: /s/ Paul E. Smith

PATTERSON HARKAVY LLP

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Paul E. Smith, NC Bar No. 45014
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Counsel for Harper Plaintiffs

**Pro hac vice motion pending*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this day *by email*, addressed to counsel for all other parties.

This the 27th day of December, 2021.

/s/ Paul E. Smith
Paul E. Smith, NC Bar No. 45014

Exhibit A

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 21 CVS 015426
No. 21 CVS 500085

NORTH CAROLINA LEAGUE OF CONSERVATION
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COMMON CAUSE,

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STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

**HARPER PLAINTIFFS’
SECOND SET OF
INTERROGATORIES TO
LEGISLATIVE
DEFENDANTS**

NOW COME PLAINTIFFS, by and through their undersigned counsel, and hereby serve upon the Legislative Defendants (“Defendants” or “You”) the following Plaintiffs’ Second Set of Interrogatories (“Request”) pursuant to Rules 26 and 33 of the North Carolina Rules of Civil Procedure. Unless otherwise stated, you are required to provide a complete written response to each interrogatory, under oath, within 30 days after the service of this Request, except that you may serve a response within 45 days after service of the Summons and Complaint upon you. If you object to a specific interrogatory, the reasons for the objection must be stated with particularity. If objection is made to part of an interrogatory, the part shall be specified.

You are required, when responding to this Request, to furnish all information available to you, to your attorneys or agents, or to anyone acting on your behalf or on behalf of your attorneys, or your agents.

For purposes of responding to this Request, you shall use the instructions and definitions contained herein. The Request shall be continuing in nature until the date of trial, and Defendants are required to serve supplemental responses as additional information may become available to them.

INSTRUCTIONS

For the purposes of this Request, the following instructions shall apply as set forth below except as otherwise required by context:

1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 33, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys’ fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
2. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
3. If any Request is objected to on the grounds of its being overly broad or unduly burdensome, state the manner in which it is overly broad or unduly burdensome and respond to the Request as narrowed to conform to such objection.
4. **If any documents, communications, ESI, or responses are withheld on the ground of any privilege**, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document that forms the basis for the withheld response;
 - B. the date of the communication or document;
 - C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;

- D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
- E. the name and address of any person currently in possession of the document or a copy thereof; and
- F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of these Requests, the following definitions shall apply except as otherwise required by context:

1. “Identify,” “identifying,” and “identification,” when referring to a person, mean to provide an identification sufficient to notice a deposition of such person and to serve such person with process to require his or her attendance at a place of examination and shall include, without limitation, his or her full name, present or last known address, present or last known business affiliation, home and business telephone number, title or occupation, and each of his or her business or employment positions or affiliations during the period of time in which the 2021 Plans were being created.
2. “2021 Plans Criteria” means the criteria for drawing the 2021 Plans adopted by the House Committee on Redistricting and Senate Committee on Redistricting and Elections on August 12, 2021.
3. “2021 Plans” mean the 2021 redistricting plans for the North Carolina House of Representatives, North Carolina Senate, and North Carolina delegation to the U.S. House of Representatives that were passed by the North Carolina General Assembly in November 2021.

INTERROGATORIES

1. Identify, **by 5 p.m. on December 23, 2021**, each person who, to your knowledge, took part in the drawing of the 2021 Plans, including each person who had any involvement in (a) the development, formulation, discussion, consideration, assessment, review, drawing, revision, negotiation, and/or adoption of the 2021 Plans and/or the 2021 Plans Criteria; (b) assisting Legislative Defendants, directly or indirectly, in conducting any of the activities described in subsection (a); or (c) providing input, directly or indirectly, to any Legislative Defendant, to their staff, or to employees of the General Assembly on the 2021 Plans and/or the 2021 Plans Criteria. This request covers individuals including, but not limited to, legislative staff members and contractors, legal counsel, members of political organizations, and outside consultants of any kind, including outside political consultants or outside mapmakers.

RESPONSE:

2. Identify, **by 5 p.m. on December 23, 2021**, all documents or data relied upon or otherwise considered by any Legislative Defendant or by any person identified in response to Interrogatory No. 1 above in connection with the creation of the 2021 Plans, including but not limited to draft redistricting plans (whether partial or complete), analysis of or relating to the 2021 Plans or drafts thereof, election or other partisan data, racial data, or any other data.

RESPONSE:

Dated: December 21, 2021

By: /s/ Burton Craige _____

PATTERSON HARKAVY LLP

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Narendra K. Ghosh, NC Bar No. 37649
Paul E. Smith, NC Bar No. 45014
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(202) 954-5000
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Counsel for Harper Plaintiffs

**Pro hac vice motion pending*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *by email*, addressed to counsel for all other parties.

This the 21st day of December, 2021.

/s/ Samuel F. Callahan
Samuel F. Callahan (admitted pro hac vice)

Exhibit B

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 21 CVS 015426
No. 21 CVS 500085

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CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

COMMON CAUSE,

Plaintiff,

v.

REPRESENTATIVE DESTIN HALL, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIR OF THE HOUSE
STANDING COMMITTEE ON REDISTRICTING, *et al.*,

Defendants.

**HARPER PLAINTIFFS’
FIRST SET OF REQUESTS
FOR PRODUCTION TO
LEGISLATIVE
DEFENDANTS**

NOW COME PLAINTIFFS, by and through their undersigned counsel, and hereby serve upon the Legislative Defendants (“Defendants” or “You”) the following Plaintiffs’ First Set of Requests for Production of Documents (“Request”) pursuant to Rules 26 and 34 of the North Carolina Rules of Civil Procedure. Unless otherwise stated, you are required to produce the following documents and things requested for inspection and copying at the offices of Patterson Harkavy LLP, 100 Europa Dr., Suite 420, Chapel Hill, NC 27517 within 30 days after the services of this Request, except that you may serve a response within 45 days after service of the Summons and Complaint upon you. The response to the Request must state that inspection, copying, and related activities will be permitted as requested with respect to each item or category of document, unless the request is objected to, in which event, the reasons for the objection must be stated with particularity.

You are required, when responding to this Request, to furnish all information available to you, to your attorneys or agents, or to anyone acting on your behalf or on behalf of your attorneys, or your agents. Unless stated otherwise, this Request calls for the production of all responsive documents in your possession, custody, or control without regard to where the documents may be physically located, and without regard to who prepared or delivered the documents.

For purposes of responding to this Request, you shall use the instructions and definitions contained herein. The Request shall be continuing in nature until the date of trial.

INSTRUCTIONS

For the purposes of this Request, the following instructions shall apply as set forth below except as otherwise required by context:

1. **BE ADVISED** that under Rule 37 of the North Carolina Rules of Civil Procedure, if you fail to respond to a request made herein under Rule 34, or if you give an evasive or incomplete response, the Plaintiffs may move for a court order compelling you to respond. If such motion is granted, the court may require you to pay the reasonable costs incurred in obtaining the order, including attorneys’ fees. Failure to comply with such a court order may result in further sanctions or in contempt of court.
2. Words used in the singular number shall include the plural number, and words used in the plural number shall refer to the singular number as well.
3. If any Request is objected to on the grounds of its being overly broad or unduly burdensome, state the manner in which it is overly broad or unduly burdensome and respond to the Request as narrowed to conform to such objection.
4. **If any documents, communications, ESI, or responses are withheld on the ground of any privilege**, identify the following:
 - A. the names and addresses of the speaker or author of the communication or document that forms the basis for the withheld response;

- B. the date of the communication or document;
- C. the name and address of any person to whom the communication was made or the document was sent or to whom copies were sent or circulated at any time;
- D. the type of document or communication (e.g., letter, memorandum, invoice, contract, etc.);
- E. the name and address of any person currently in possession of the document or a copy thereof; and
- F. the privilege claimed and specific grounds therefor.

DEFINITIONS

For purposes of these Requests, the following definitions shall apply except as otherwise required by context:

1. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.
2. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity’s agents, officers, members, employees, consultants, or representatives.

REQUESTS

1. Produce, **by 5 p.m. on December 23, 2021**, all documents and data identified in your response to *Harper* Plaintiffs' Interrogatory No. 2 to Legislative Defendants, served on December 21, 2021.

Dated: December 21, 2021

By: /s/ Burton Craige

PATTERSON HARKAVY LLP

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Counsel for Harper Plaintiffs
**Pro hac vice motion pending*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *by email*, addressed to counsel for all other parties.

This the 21st day of December, 2021.

/s/ Samuel F. Callahan
Samuel F. Callahan (admitted pro hac vice)

Exhibit C

Theodore, Elisabeth

From: Phil Strach <phil.strach@nelsonmullins.com>
Sent: Monday, December 27, 2021 8:13 AM
To: Jones, Stanton; Theodore, Elisabeth; Callahan, Sam
Cc: McKnight, Katherine L.; Steed, Terence; zzz.External.akhanna@elias.law; zzz.External.lmadduri@elias.law; zzz.External.jshelly@elias.law; zzz.External.gwhite@elias.law; allison@southerncoalition.org; Hilary H. Klein; Alyssa Riggins; Mitchell D. Brown; Katelin Kaiser; jeffloperfido@scsj.org; Adam Doerr; Narendra Ghosh; Brennan, Stephanie; Burton Craige; Erik R. Zimmerman; Majmundar, Amar; Paul Smith; Stephen Feldman; Tom Farr; Babb, Mary Carla (Hollis); Braden, E. Mark; Raile, Richard; Lewis, Patrick T.; John Branch; Schauf, Zachary C.; Hirsch, Sam; Amunson, Jessica Ring; Bracey, Kali N.; Mittal, Urja R.; Molodanof, Olivia; Boer, Tom; Martin Warf; Greg McGuire; Nate Pencook; Cella, John
Subject: RE: NCLCV v Hall (21 CVS 15426) -- Harper Pls 2d Interrogatories and 1st RFPs to LDs

External E-mail

Stanton: Your email below is not a proper response to my response. We are simply following the North Carolina Rules of Civil Procedure (specifically N.C. R. Civ. P. 33(a), 34(b)). Please do the same. Thank you. Phil



PHILLIP J. STRACH PARTNER

phil.strach@nelsonmullins.com

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NELSONMULLINS.COM [VCARD](#) [VIEW BIO](#)

From: Jones, Stanton <Stanton.Jones@arnoldporter.com>
Sent: Sunday, December 26, 2021 5:42 PM
To: Phil Strach <phil.strach@nelsonmullins.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Callahan, Sam <Sam.Callahan@arnoldporter.com>
Cc: McKnight, Katherine L. <kmcknight@bakerlaw.com>; Steed, Terence <Tsteed@ncdoj.gov>; akhanna@elias.law; lmadduri@elias.law; jshelly@elias.law; gwhite@elias.law; allison@southerncoalition.org; Hilary H. Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Mitchell D. Brown <mitchellbrown@scsj.org>; Katelin Kaiser <katelin@scsj.org>; jeffloperfido@scsj.org; Adam Doerr <ADoerr@robinsonbradshaw.com>; Narendra Ghosh <nghosh@pathlaw.com>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Burton Craige <bcraige@pathlaw.com>; Erik R. Zimmerman <ezimmerman@robinsonbradshaw.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Paul Smith <psmith@pathlaw.com>; Stephen Feldman <SFeldman@robinsonbradshaw.com>; Tom Farr <tom.farr@nelsonmullins.com>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rRaile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; John Branch <john.branch@nelsonmullins.com>; Schauf, Zachary C. <ZSchauf@jenner.com>; Hirsch, Sam <SHirsch@jenner.com>; Amunson, Jessica Ring <JAmunson@jenner.com>; Bracey, Kali N. <KBracey@jenner.com>; Mittal, Urja R. <UMittal@jenner.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Boer, Tom

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Subject: RE: NCLCV v Hall (21 CVS 15426) -- Harper Pls 2d Interrogatories and 1st RFPs to LDs

Phil: Your email below is not a proper response to our written discovery requests. Under the circumstances, Legislative Defendants cannot reasonably rely on the ordinary 30-day window to respond to discovery requests, which in this case would be after the trial is over; in any event, if Legislative Defendants intended to object on timing grounds, they should have let us know days ago when the requests were served. And substantively, simply pointing to the General Assembly's website and YouTube is plainly not an adequate response. We served an interrogatory and requests for production on all Legislative Defendants seeking information and materials that are not publicly available. Please provide proper responses and objections, as well as all responsive, non-privileged documents, by 9:30am tomorrow (Monday, December 27). If not, we will seek relief from the Court.

Regards,
Stanton

From: Phil Strach <phil.strach@nelsonmullins.com>

Sent: Friday, December 24, 2021 11:40 AM

To: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Callahan, Sam <Sam.Callahan@arnoldporter.com>

Cc: McKnight, Katherine L. <kmcknight@bakerlaw.com>; Steed, Terence <Tsteed@ncdoj.gov>; Jones, Stanton <Stanton.Jones@arnoldporter.com>; z.zz.External.akhanna@elias.law <akhanna@elias.law>;

z.zz.External.lmadduri@elias.law <lmadduri@elias.law>; z.zz.External.jshelly@elias.law <jshelly@elias.law>;

z.zz.External.gwhite@elias.law <gwhite@elias.law>; allison@southerncoalition.org; Hilary H. Klein

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<mitchellbrown@scsj.org>; Katelin Kaiser <katelin@scsj.org>; jeffloperfido@scsj.org; Adam Doerr

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Branch <john.branch@nelsonmullins.com>; Schauf, Zachary C. <ZSchauf@jenner.com>; Hirsch, Sam

<SHirsch@jenner.com>; Amunson, Jessica Ring <JAmunson@jenner.com>; Bracey, Kali N. <KBracey@jenner.com>;

Mittal, Urja R. <UMittal@jenner.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Boer, Tom

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<John.Cella@arnoldporter.com>

Subject: RE: NCLCV v Hall (21 CVS 15426) -- Harper Pls 2d Interrogatories and 1st RFPs to LDs

External E-mail

Elisabeth:

The NCLCV optimized maps and associated data were required to be produced pursuant to the Scheduling Order. Under the North Carolina Rules of Civil Procedure, responses to written discovery requests are due 30 days after service unless the Court shortens the time. N.C. R. Civ. P. 33(a), 34(b). In any event, because of the historically transparent redistricting process used by the General Assembly the information requested in the discovery requests is publicly available at www.ncleg.gov and YouTube ([NCGA Redistricting - YouTube](#)).

Thanks.

Phil



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From: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>

Sent: Friday, December 24, 2021 9:33 AM

To: Callahan, Sam <Sam.Callahan@arnoldporter.com>

Cc: McKnight, Katherine L. <kmcknight@bakerlaw.com>; Steed, Terence <Tsteed@ncdoj.gov>; Jones, Stanton <Stanton.Jones@arnoldporter.com>; akhanna@elias.law; lmadduri@elias.law; jshelly@elias.law; gwhite@elias.law; allison@southerncoalition.org; Hilary H. Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Mitchell D. Brown <mitchellbrown@scsj.org>; Katelin Kaiser <katelin@scsj.org>; jeffloperfido@scsj.org; Adam Doerr <ADoerr@robinsonbradshaw.com>; Narendra Ghosh <nghosh@pathlaw.com>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Burton Craige <bcraige@pathlaw.com>; Erik R. Zimmerman <ezimmerman@robinsonbradshaw.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Paul Smith <psmith@pathlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Stephen Feldman <SFeldman@robinsonbradshaw.com>; Tom Farr <tom.farr@nelsonmullins.com>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; John Branch <john.branch@nelsonmullins.com>; Schauf, Zachary C. <ZSchauf@jenner.com>; Hirsch, Sam <SHirsch@jenner.com>; Amunson, Jessica Ring <JAmunson@jenner.com>; Bracey, Kali N. <KBracey@jenner.com>; Mittal, Urja R. <UMittal@jenner.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Martin Warf <martin.warf@nelsonmullins.com>; Greg McGuire <greg.mcguire@nelsonmullins.com>; Nate Pencook <nate.pencook@nelsonmullins.com>; Cella, John <John.Cella@arnoldporter.com>

Subject: Re: NCLCV v Hall (21 CVS 15426) -- Harper Pls 2d Interrogatories and 1st RFPs to LDs

◀External Email▶ - From: prvs=9853f3c82=Elisabeth.Theodore@arnoldporter.com

Counsel:

We haven't heard back from you about our discovery requests, which were due yesterday and sought the same information you asked for and received about the NCLCV "optimized maps," namely a list of people who was involved in drawing the plans or assisting those who did, and source data and analysis of those plans. Obviously, if you are entitled to that information about a proposed alternative map, we are entitled to that information about the actual maps that are the subject of this litigation. Are you asserting legislative privilege?

Please let us know your position by today at noon. At minimum, we need this discovery by Sunday at noon so that we can review it before Rep. Hall's deposition.

Thanks,
Elisabeth

On Dec 21, 2021, at 11:15 AM, Callahan, Sam <Sam.Callahan@arnoldporter.com> wrote:

Counsel: Please find attached *Harper* Plaintiffs' Second Set of Interrogatories to Legislative Defendants and First Set of Requests for Production to Legislative Defendants.

Thank you,
Sam Callahan

Sam Callahan
Associate

Arnold & Porter
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Washington | District of Columbia 20001-3743
T: +1 202.942.5816
Sam.Callahan@arnoldporter.com | www.arnoldporter.com

From: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>
Sent: Tuesday, December 21, 2021 10:54 AM
To: 'McKnight, Katherine L.' <kmcknight@bakerlaw.com>; Steed, Terence <Tsteed@ncdoj.gov>; Jones, Stanton <Stanton.Jones@arnoldporter.com>; Callahan, Sam <Sam.Callahan@arnoldporter.com>; zzz.External.akhanna@elias.law <akhanna@elias.law>; zzz.External.lmadduri@elias.law <lmadduri@elias.law>; zzz.External.jshelly@elias.law <jshelly@elias.law>; zzz.External.gwhite@elias.law <gwhite@elias.law>; allison@southerncoalition.org; Hilary H. Klein <hilaryhklein@scsj.org>; Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Mitchell D. Brown <mitchellbrown@scsj.org>; Katelin Kaiser <katelin@scsj.org>; jeffloperfido@scsj.org; Adam Doerr <ADoerr@robinsonbradshaw.com>; Narendra Ghosh <nghosh@pathlaw.com>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Burton Craige <bcraige@pathlaw.com>; Erik R. Zimmerman <ezimmerman@robinsonbradshaw.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Paul Smith <psmith@pathlaw.com>; Phil Strach <phil.strach@nelsonmullins.com>; Stephen Feldman <SFeldman@robinsonbradshaw.com>; Tom Farr <tom.farr@nelsonmullins.com>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; Braden, E. Mark <MBraden@bakerlaw.com>; Raile, Richard <rraile@bakerlaw.com>; Lewis, Patrick T. <plewis@bakerlaw.com>; John Branch <john.branch@nelsonmullins.com>; Schauf, Zachary C. <ZSchauf@jenner.com>; Hirsch, Sam <SHirsch@jenner.com>; Amunson, Jessica Ring <JAmunson@jenner.com>; Bracey, Kali N. <KBracey@jenner.com>; Mittal, Urja R. <UMittal@jenner.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Boer, Tom <tom.boer@hoganlovells.com>; Martin Warf <martin.warf@nelsonmullins.com>; Greg McGuire <greg.mcguire@nelsonmullins.com>; Nate Pencook <nate.pencook@nelsonmullins.com>; Cella, John <John.Cella@arnoldporter.com>
Subject: RE: NCLCV v. Hall - evidentiary and scheduling issues

Thanks for this response, Kate.

The three plaintiff groups collectively anticipate offering 7 expert witnesses. We aren't in a position to provide a count right now on fact witnesses who will testify at trial, especially in light of the pending question relating to the admissibility of fact affidavits.

As for scheduling expert depositions, while we understand the competing obligations that everyone has, Dec. 30 and Dec. 31 are the only possible days to schedule depositions of your rebuttal experts, which is why we wanted to provide notice to hold those dates. Given that your rebuttal experts will disclose