

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE  
CONFERENCE OF THE NAACP, and

TAIWAN SCOTT, on behalf of himself and  
all other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official  
capacity as President of the Senate; LUKE A.  
RANKIN, in his official capacity as Chairman  
of the Senate Judiciary Committee; JAMES H.  
LUCAS, in his official capacity as Speaker of  
the House of Representatives; CHRIS  
MURPHY, in his official capacity as Chairman  
of the House of Representatives Judiciary  
Committee; WALLACE H. JORDAN, in his  
official capacity as Chairman of the House of  
Representatives Elections Law Subcommittee;  
HOWARD KNAPP, in his official capacity as  
interim Executive Director of the South  
Carolina State Election Commission; JOHN  
WELLS, Chair, JOANNE DAY, CLIFFORD  
J. EDLER, LINDA MCCALL, and SCOTT  
MOSELEY, in their official capacities as  
members of the South Carolina Election  
Commission,

Defendants.

Civil Action No. 3:21-cv-03302-JMC-TJH-RMG

**HOUSE DEFENDANTS' RESPONSE IN  
OPPOSITION TO PLAINTIFFS'  
MOTION TO ENFORCE FEBRUARY  
10, 2022 COURT ORDER (ECF NO. 153)  
AND FOR AN *IN CAMERA* REVIEW  
OF PRIVILEGE LOG MATERIALS**

Defendants James H. Lucas (in his official capacity as Speaker of the South Carolina House of Representatives), Chris Murphy (in his official capacity as Chairman of the South Carolina House of Representatives Judiciary Committee), and Wallace H. Jordan (in his official capacity as Chairman of the South Carolina House of Representatives Redistricting Ad Hoc Committee) (collectively, "House Defendants"), by and through undersigned counsel, respectfully submit this

Response in Opposition to Plaintiffs’<sup>1</sup> Motion to Enforce the February 10, 2022 Order (ECF No. 153) and for an *In Camera* Review of the documents on House Defendants’ privilege log (“Motion”) (ECF No. 198).

### **INTRODUCTION**

Despite Plaintiffs’ unwarranted, and in some instances, uncivil attacks to the contrary, House Defendants have fully complied with their discovery obligations under the Federal Rules of Civil Procedure and this Court’s February 10, 2022 Order (ECF No. 153). In fact, House Defendants have taken measures beyond their obligations under the discovery rules and are compiling and producing documents from additional legislators over whom they do not have control.<sup>2</sup> In addition, House Defendants are accommodating Plaintiffs’ request for additional search terms across all custodians, despite use of comprehensive search terms in the initial productions. House Defendants’ conduct stands in stark contrast to Plaintiffs’ woefully deficient productions, which are largely described in the Reply filed March 25, 2022 in further support of House Defendants’ Motion to Compel (ECF No. 201).

Ironically, Plaintiffs’ Background more accurately describes the inadequacies and improprieties of Plaintiffs’ discovery conduct, as it has little if any resemblance to the actions and participation of House Defendants in discovery to date. *See* ECF No. 198, 4-11. Unlike Plaintiffs, House Defendants have both transparently participated in the discovery processes, and judiciously followed the proper course for raising and resolving discovery disputes. *See e.g.*, ECF No. 157. In

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<sup>1</sup> “Plaintiffs” is a collective reference to The South Carolina State Conference of the NAACP (“SC NAACP”) and Taiwan Scott, on behalf of himself and all other similarly situated persons (“Scott”).

<sup>2</sup> As House Defendants have repeatedly informed Plaintiffs, the documents that House Defendants agreed to gather from these additional custodians were not within House Defendants possession, custody, or control. As such, House Defendants went above and beyond the requirements of FRCP 34 by agreeing to gather and produce these documents.

contrast, Plaintiffs resort to gamesmanship and “hide-the-ball” tactics that serve only to frustrate and inhibit the truth-seeking function of the Court. Indeed, Plaintiffs are once again presenting an extensive false rhetoric to the Court about the discussions that occurred during the recent abeyance period, only this time<sup>3</sup> they do so with actual notice from House Defendants that Plaintiffs’ unsolicited “summary” writings are inaccurate and incomplete descriptions of what took place during the lengthy discovery discussions. *See* ECF Nos. 198-5, 2-9;198-8, 8.

More fully addressed herein, there is no credible basis for Plaintiffs’ claim that House Defendants have not complied with the Court’s Order. Moreover, House Defendants have already agreed to add document custodians and expand term searches during the pre-filing discussions with Plaintiffs (which Plaintiffs inexcusably ignore in their Background) and there is no need for the Court to conduct an *in camera* review of privileged materials. *See* ECF No. 198, 5-10. As such, and in light of the below, Plaintiffs are not entitled to any of the demanded relief and the Motion should be denied.

#### **CORRECTION OF PLAINTIFFS’ “BACKGROUND”**

With a tone equal parts indignant and disgruntled, Plaintiffs present a Background discussion that has little to no resemblance to the facts and the actual procedural posture of the case. Presumably Plaintiffs’ reasoning is their failure—yet again—to comply with the discovery rules and the Local Civil Rules of this jurisdiction. Indeed, Plaintiffs’ “Motion to Enforce the

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<sup>3</sup> Plaintiffs engaged in a similar tactic in their rush to overcome the legislative privilege, representing to the Court several “positions” purportedly taken by House Defendants during a conference call that were not only inaccurate representations of House Defendants’ statements (*see* ECF No. 119, 6-7), but also representations of discussion that only occurred because Plaintiffs’ counsel explained the inquiry was “unofficial” and just to assess matters “without having to guarantee a position.” Unfortunately, Plaintiffs’ false statements were incorporated as if accurate in the Order. *See* ECF No. 153, 4.

February 10, 2022 Order” is in fact an untimely<sup>4</sup> Motion to Compel. *See* L.R. 37.01(A) (requiring motion within twenty-one (21) days of receipt of written responses); *see also* ECF No. 198-5 at 6. Apparently in an effort to move the Court to action despite their delinquency in seeking relief, Plaintiffs manufacture allegations of inadequacy in House Defendants’ compliance with the Court’s Order, baldly misstating key facts related to, among other things, what has been produced by House Defendants and what transpired during meet and confer discussions between the parties.

**A. Plaintiffs’ Motion to Compel and this Court’s February 10, 2022 Order.**

Noted above, it was Plaintiffs’ election to deal only with the matter of legislative privilege in their Motion to Compel filed on February 2, 2022. (*See* ECF Nos. 119; 198 at 2). Plaintiffs’ Motion acknowledged that House Defendants had asserted substantive objections to scope on many of the document requests (ECF No. 119, n.2), and House Defendants explicitly expounded on their propounded objections related to scope in their Response (ECF No. 134, 8-10). These concerns were noted by the Court as “significant” in observing Plaintiffs’ Motion sought only to address legislative privilege. ECF No. 153, n.1. Following the Court’s February 10, 2022 ruling, Plaintiffs did not inquire with House Defendants on their collection efforts or otherwise raise concerns with the sufficiency of House Defendants’ responses or productions<sup>5</sup>. Instead, during the recent consultation discussions on House Defendants’ outstanding Motion to Compel, Plaintiffs

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<sup>4</sup> House Defendants served their written responses to Plaintiffs’ First Set of Requests for Production on January 24, 2022. ECF No. 119-1. The deadline to file a motion to compel responses was February 14, 2022; Plaintiffs did file such a motion, but chose to request only relief as to legislative privilege and did not raise any of the issues now brought to the Court under the guise of “enforcing” the Court’s Order. *See* ECF No. 119, 16 (stating relief sought by Motion); ECF No. 153, n.1 (“[T]he court notes Plaintiffs’ Motion is solely directed to the question of whether legislative privilege applies to the requested documents.”).

<sup>5</sup> Notably, Plaintiffs have not identified any Federal Rule of Civil Procedure or Local Rule to serve as a basis for their latest Motion (*see* ECF No. 198), and in their Standard of Review make mention of various discovery principles without enunciating the basis for relief. *See id.* at 11-13.

first interrogated House Defendants on the manner and extent of their discovery collections to date, then discussed and memorialized in their unsolicited missives certain “concerns” held by Plaintiffs that House Defendants should do more in order to meet their discovery obligations. *See* ECF Nos. 198-6, 7, and 8; ECF Nos. 201-5, 6, and 7. Not once did Plaintiffs link these “concerns” to the actual discovery responses served by House Defendants, nor did Plaintiffs at any time support their demands for more by any legal authority.

Here again, Plaintiffs do not tie their alleged grievances to any specific responses of House Defendants to the First Set of Requests for Production. Instead, Plaintiffs seek to bootstrap their desire of wanting “more” to the Court’s Order on legislative privilege. House Defendants fully understand that the Court granted in part Plaintiffs’ Motion to Compel with respect to the following categories of documents and information subject to specific limitations:

1. Depositions of all legislators, staff (including Map Room staff) and consultants involved in the development, design and/or revisions of H. 4493;
2. All versions of maps and related documents produced during the course of the development, design, and/or revisions of H. 4493 and sufficient data to determine the date and time such maps were produced and the persons involved in submitting and reviewing them;
3. All documents which relate in any manner to the intent behind any proposed design and/or revision of the H. 4493 or any individual district referenced in Plaintiffs’ Amended Complaint;
4. All documents related to any racially polarized voting analysis utilized in the development, design and/or revision of H. 4493;
5. Documents which identify and/or describe any computer software utilized in the development, design and/or revising of H. 4493;
6. Any documents produced and/or provided by persons not legislators or staff which relate to the development, design and/or revision of H. 4493; and
7. All documents which address any changes in districts from the existing House Plan to H. 4493.

ECF No. 153 at 17. The plain language of the Order limits the requisite discovery entitlement to the seven categories of documents and information enumerated by the Court. *See id.* at 16-17 (explaining limitation would be to areas that would be “relevant to the broad issue of legislative motivation in the enactment of H. 4493, subject to the limitations discussed in this order.”). The Order explicitly declined to address the “breadth, burden, scope, and proportionality” claims lodged to Plaintiffs’ requests (ECF No. 153, 17), and Plaintiffs’ poorly veiled attempts to shoehorn the Court’s Order into a full-scale approval of their overbroad and excessive discovery requests should be rejected.

**B. House Defendants’ Discovery Actions to Date.**

Plaintiffs’ Motion should be denied if for no other reason than their obvious failure to fairly apprise themselves of the specific productions made by House Defendants *in compliance with the Court’s Order*. This is to say, Plaintiffs inexplicably make no mention of the productions made by House Defendants on February 14 and February 15, 2022 (as ordered by the Court), which were accompanied by a thorough explanation of the discovery material forthcoming to Plaintiffs as a result of the ruling on privilege. **Exhibit A**, 2/14/22 Production Letter; **Exhibit B**, 2/15/22 Production Letter. In fact, the February 14 letter to Plaintiffs not only detailed the documents and information that had been or was being produced pursuant to each item from the Court’s Order, but also restated the details of the eight productions that had occurred as of that date. To date, House Defendants have made the following productions to Plaintiffs:

First: Emails from the [Redistricting@SCHouse.gov](mailto:Redistricting@SCHouse.gov) account  
(1,852 documents Bates labeled SC\_HOUSE\_0000001-0010047)

Second: Documents and information from the House Redistricting websites from the 2001, 2011, and 2021 redistricting cycles  
(2,362 documents Bates labeled SC\_HOUSE\_0010047-0035735)

Third: Legislative manuals dating to 1980 as requested in Plaintiffs’ RFP No. 3

(158 documents Bates labeled SC\_HOUSE\_0035736-0061491)

Fourth: Videos of public hearings and election data obtained from the South Carolina Election Commission  
(32 documents Bates labeled SC\_HOUSE\_0061492-0061523)

Fifth: Documents and information related to public hearings of the House Redistricting Ad Hoc Committee  
(91 documents Bates labeled SC\_HOUSE\_0061524-0062043)

Sixth: Emails, documents and information of legislators and key staff related to the 2021 redistricting cycle and the development, design and/or revision of H. 4493  
(2,031 documents Bates labeled SC\_HOUSE\_0062044-0091616)

Seventh: Emails, documents and information that compromise the files of House Defendants' expert witnesses  
(245 documents Bates labeled SC\_HOUSE\_0091233-0092808)

Eighth: Draft maps of House Districts prepared by House Members and the population data worksheets that accompanied draft maps as maintained in the Map Room  
(495 documents Bates labeled SC\_HOUSE\_0091617-0091232)

Ninth: The electronic versions of maps and related data created during the redistricting process prior to the enactment of Act No. 117  
(6,172 documents Bates labeled SC\_HOUSE\_0093044-0100276)

Tenth: Additional e-mails, documents and information produced pursuant to the Court's Order of February 10, 2022  
(963 documents Bates labeled SC\_HOUSE\_0100277-0102025)

Again, notwithstanding the absence of any deficiency notice or other indication that Plaintiffs believed House Defendants were not complying with the Court's Order, during the meet and confer discussions on House Defendants' Motion to Compel, House Defendants agreed to take additional steps to ensure a comprehensive production takes place on their part even while having to pursue the Court's assistance with Plaintiffs' lack of participation. These additional steps

include<sup>6</sup>:

- Interviewing each named House Defendant, as well as other custodians, regarding the use of personal emails and devices in the redistricting process;
- Obtaining express consent from every member of the Redistricting Ad Hoc Committee in order to collect, review, and produce relevant emails despite the fact that House Defendants do not have possession, custody, or control over these individual legislators' e-mail accounts.
- Expanding the scope of review to include search terms for the custodial PST files in addition to what was already a very expansive list of original search terms (a list that included the term "district\*") to incorporate the relevant concepts requested by Plaintiffs<sup>7</sup>; and
- Further refining their privilege log to remove communications for which House Defendants will no longer assert attorney-client privilege or work product protection.

Despite the foregoing efforts and activities, Plaintiffs insist—for no discernable reason—that some hidden universe of communications must exist somewhere revealing that discriminatory intent existed in the enactment of H. 4493. In the last few weeks, Plaintiffs have been relentless in assuming these communications must exist and continue to insist – without any basis – that there *must be more documents somewhere* that House Defendants are refusing to collect and produce

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<sup>6</sup> House Defendants anticipated producing the documents from these additional custodians and the expanded search terms this week, but have had to devote significant time and attention to briefing these discovery matters, which may impact the timing.

<sup>7</sup> House Defendants' initial search terms were: redistrict\*, reapportion\*, census w/3 map\*, district\*, "ad hoc committee," population, deviation, gerrymander\*, pack\*, crack\*, "majority-minority", BVAP, "black voting age population", "map room", combine OR collapse, "voting rights act", and preclear\*. House Defendants also added compact\*, communit\* w/3 (interest OR color), COI, split\* w/3 (precinct\* or communit\*), Criteria w/3 (House OR District\*), rac\* w/3 vot\*, "Black voters", NAACP, LWV, LWVSC, ACLU, LDF, "Young Democrats of South Carolina", YDSC, "York County Democratic Party", "Michael Roberts", "Republican National Committee", RNC, "Republican State Leadership Committee", RSLC, "National Republican Redistricting Trust", and NRRT.

in discovery.<sup>8</sup> Indeed, the reality is that the legislative process for redistricting occurred in the map room with legislators drawing concepts for their districts and surrounding districts in real time. Plaintiffs' own Motion observes that the redistricting process occurred over just four (4) months. The extensive road show of public hearings and subsequent committee hearings were personally attended by the Redistricting Ad Hoc Committee Members, allowing for face-to-face discussions between and among these legislators. And while it would make sense that very little business related to the redistricting process was done via e-mail, Plaintiffs' Motion is nothing short of ignorant in its representation of the extent of the custodial productions.<sup>9</sup> See ECF No. 198 at 5.

Plaintiffs claim that "it defies common sense that such a time-consuming, complex endeavor could produce such a small number of relevant emails." ECF No. 198 at 6. Inexplicably, Plaintiffs ignore that the more crucial (and privileged) evidence of legislators' motivations and intentions is found in the map room data House Defendants were required to produce to Plaintiffs over their objection following the Court's Order. With House Defendants' Ninth Production on February 15, 2022 (Exhibit B), Plaintiffs were in possession of the electronic versions of maps created by legislators during the redistricting process, in the protected and confidential forum of the map room, where one or more Members redrew House District lines based on the published Census data. It should not be difficult to fathom that there was no need for extensive or substantive

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<sup>8</sup> In fact, Plaintiffs' theories of conspiracy are so expansive they include a belief that House Defendants are withholding relevant communications *with national partisan groups*. See ECF No. 198-8 at 6, 10-11 (including Republican State Leadership Conference, National Republican Redistricting Trust, and Republican National Committee as specifically sought third parties and search terms for communications). The fact of the matter is that Plaintiffs have not seen such communications because such communications do not exist.

<sup>9</sup> Another flagrant misrepresentation to this Court is Plaintiffs' exclusion of Emma Dean's custodial production from the custodians identified on page 5 of Plaintiffs' Motion. Ms. Dean is Chief Counsel to the House Judiciary Committee and was perhaps the most integral non-legislator staffer responsible for shepherding the Committees through the redistricting process—Ms. Dean is the custodian for *1,946 documents* in House Defendants' PST productions.

written exchanges regarding the lines drawn in H. 4493. Rather (and understandably), the majority of communications were administrative or procedural in nature, dealing with scheduling and logistics. That said, Plaintiffs ignore that there were instances where legislators discussed changes to their districts via e-mail, and those e-mails have been produced. *See, e.g.*, SC\_HOUSE\_00100277-00100280. However, these types of emails happened to be the exception, not the rule, when it came to how legislators discussed redistricting during the compressed circumstances of this most recent cycle.

**1. House Defendants Have Agreed to More Than Sufficient Custodian Searches.**

As discussed above, House Defendants have identified an expansive number of custodians for review of discovery materials beyond the three named members of the House of Representatives that have been sued in their official capacities,<sup>10</sup> including such key House staff as the General Counsel to the House, the key staff responsible to the House Judiciary Committee, and the Map Room GIS Director. For these eight (8) custodians, House Defendants conducted extensive key term searches of their electronic communications (and document attachments)<sup>11</sup> and collected hard copy documents and files from these custodians as well as inquired about the existence of any other potentially relevant materials to be collected. Bluntly, Plaintiffs' unwarranted demands for seizure and search of the House Defendants or their staffs' personal devices or e-mail accounts is wholly unjustified.

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<sup>10</sup> In these late demands that House Defendants must do "more", Plaintiffs ignore that the three named House Defendants were sued in their official capacity, and the conduct at issue (approval of H. 4493) was the product of votes cast by the entire House of Representatives by well over 100 elected Representatives. Plaintiffs' right to discovery is necessarily framed by the manner in which they chose to bring their claims, and they are not automatically entitled to further expansive discovery that is essentially the demand of the Motion.

<sup>11</sup> Discussed further below, House Defendants sought and obtained consent from the remaining members of the Redistricting Ad Hoc Committee to collect and search their e-mails for discovery materials, an additional six (6) custodians.

House Defendants do not dispute the sporadic use of their personal e-mail accounts to receive redistricting-related communications and were transparent in producing such information (without redaction) in discovery. As each of the named House Defendants are practicing lawyers with busy law practices in addition to their service to the House—coupled with the unsurprising facts that House Members receive vast amounts of solicited and unsolicited communications to their official e-mail accounts each day and (particularly when the House is not in session) have less opportunity to cull through those communications for specific needs—the use of their business e-mail account in addition to the House e-mail accounts is logical. What matters more, however, is that relevant communications have been *nonetheless captured* as a result of the other custodians searched, namely the only House staff involved in the daily tasks of the redistricting process (Mr. Dennis, Ms. Dean, Mr. Hinson, Mr. Franklin and Mr. Hauger). There is simply no basis to believe that relevant communications have not be captured and collected through House Defendants’ efforts to date, and it is exceedingly redundant, burdensome, and unnecessary to search additional accounts for the same e-mails that have already been produced. As further addressed below, Plaintiffs have failed to justify the burden attendant to further expanding discovery under FRCP 34.

## **2. House Defendants Have Made Expansive Custodian Designations.**

Plaintiffs’ Motion on the issue of the added custodian accounts is patently false—representing to the Court that “Plaintiffs served subpoenas on those members [of the Redistricting Ad Hoc Committee]” after House Defendants “stated their position that they cannot collect documents from those members without consent.” ECF No. 198, 10. This is not true. During the meet and confer held on March 14, 2022, House Defendants confirmed they had only one outstanding Redistricting Ad Hoc Committee Member from whom they were waiting on for

consent to collect their electronic files and perform the key term search for responsive information (though House Defendants did not identify whose consent was outstanding<sup>12</sup>). The additional Members whose e-mails and documents are being reviewed (per Plaintiffs' request) are Rep. Beth Bernstein, Rep. Justin Bamberg, Rep. Neal Collins, Rep. Jason Elliot, Rep. Pat Henegan, and Rep. Weston Newton.

Despite asking House Defendants to undertake this inquiry and obtaining confirmation of all but one member within a matter of days, Plaintiffs proceeded to issue their subpoenas *after* notice that the consents had been obtained on March 17, 2022 to four of the six members (Rep. Bamberg, Rep. Collins, Rep. Elliot, and Rep. Newton). **Exhibit C** (Plaintiffs' Subpoenas). These deceptive distortions of the timeline are found throughout Plaintiffs' Motion and are frankly inexcusable.

### **3. House Defendants Have Produced Third Party Documents.**

With absolutely zero support or authority, Plaintiffs summarily accuse House Defendants of making “no effort to collect documents from consultants or third parties they relied on in drafting the house maps, including the enacted map in H. 4493.” ECF No. 198 at 10. To make this representation, Plaintiffs wholly ignore House Defendants' Seventh Production, which consisted of e-mails, documents and information that comprised the files of House Defendants' expert witnesses. *See* Exhibit A. House Defendants also included Thomas Hauger as a custodian from the beginning of their collection activities, GIS Director and supervisor of the Map Room. Plaintiffs should be chastised for such flagrant misrepresentations.

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<sup>12</sup> Interestingly, in Plaintiffs' March 15 “summary” they both acknowledge that House Defendants “received consent from all but one of the Ad Hoc Redistricting Committee members to collect and produce the PST files” but also suggest the one member waiting on was a “him”—it was not. *See* ECF No. 198-5 at 11.

#### 4. House Defendants Have Produced Exactly What the Court Ordered.

Plaintiffs' allegation that House Defendants have not complied with the Court's Order is outrageous, and their claims evidence an inexcusably inadequate investigation of the documents productions that have been made before bringing this Motion to the Court. In the Motion, Plaintiffs lodge the entirely false allegation that House Defendants "defied the Court's order" by not producing "all maps 'with sufficient data to determine the date and time such maps were produced and the persons involved in submitting and reviewing them.'" ECF No. 198 at 10-11. This is patently false.

First, the Court's order to produce "all versions of maps produced" during the redistricting process with sufficient identifying data is not an instruction to produce information that does not exist. Federal Rule of Civil Procedure 34 "does not require a party to create responsive documents if they do not exist in the first instance and the Court cannot compel a party to produce documents that do not exist." *Payless Shoesource Worldwide, Inc. v. Target Corp.*, No. 05-4023, 2008 WL 973118, at \*4 (D. Kan. Apr. 8, 2008) (cited in *Machinery Sol., Inc. v. Doosan Infracore Am. Corp.*, 323 F.R.D. 522, 537 (D.S.C. 2018)). Plaintiffs complain that House Defendants have "produced hundreds of maps, but without information sufficient to allow Plaintiffs to determine when the maps were generated or who was involved in creating, submitting, or reviewing the map," and that "almost all of these maps have been produced unattached to any email or communication or metadata indicating who generated the map or when it was generated." ECF No. 198 at 10. Had Plaintiffs exercised minimal due diligence before filing their Motion, they would know from the February 14, 2022 production letter that the "259 draft maps of House Districts as prepared by House Members prior to the enactment of H. 4493, as well as the 236 population data worksheets that accompanied draft maps" were produced in the manner "maintained at the House in the Map Room in printed form". Exhibit A. Consequently, there is no "data" beyond the .pdf documents

that exists that could connect any particular map to any particular legislator,<sup>13</sup> as printed pieces of paper do not contain the metadata that Plaintiffs suggest is required.

That Plaintiffs' bold accusation of defiance is outrageously uninformed<sup>14</sup> is because it ignores the production of gigabytes worth of data made by House Defendants on February 15, 2022, representing the map files and attendant metadata from the Map Room computers—consisting of some 6,172 documents and 7,233 pages, Bates labeled SC\_HOUSE\_0093044-SC\_HOUSE\_0100276. *See* Exhibit B. It is demonstrably clear that House Defendants' Ninth Production contains the swaths of metadata and supporting information for each map that was drawn in the Map Room, including the time, date, and station at which each map was drafted, that was contemplated in the Court's Order and fully meets the instruction to produce all versions of maps produced during the course of redistricting with "sufficient data to determine the date and time such maps were produced and the persons involved in submitting and reviewing them." ECF No. 153 at 17.

**C. House Defendants Agreed to Further Refine Their Privilege Log.**

House Defendants and Plaintiffs have repeatedly engaged on questions of privilege and matters identified on privilege logs, with further reviews agreed to and ongoing plans to downgrade items from privileged to not privileged. Despite these continuing engagements and readily

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<sup>13</sup> Again, with some time and attention, Plaintiffs presumably could surmise the person(s) who may have had a role in the maps based on the sign-in sheets for the map room, which contain relevant information such as the time, date, legislator's name, and district number.

<sup>14</sup> Plaintiffs also complain House Defendants have "[w]orse yet" produced maps "from not only the 2021 redistricting cycle, but the 2011 and 2001 cycles as well," which in Plaintiffs' view, "frustrates, rather than aids in" their discovery process. ECF No. 198, 10. The Court's Order expressly directed the production of "[a]ll documents which address any changes in districts from the existing House Plan to H. 4493" (ECF No. 153, 17), and Plaintiffs themselves defined their discovery demands to include all prior versions of maps. Plaintiffs' accusations of wrongdoing against House Defendants are exceedingly uninformed.

apparent good faith efforts on the part of House Defendants, Plaintiffs posit to the Court that the ruling as to legislative privilege is tantamount to finding House Defendants are not entitled to any privileges at all. *See* ECF No. 198 at 11. With all due respect, the Court’s Order finding that legislative privilege must give way is not equivalent to a ruling that House Defendants are not entitled to assert attorney-client privilege or work product protection in the same manner as any other litigant. House Defendants further submit any such argument demanding unfettered access to communications between legislators and legal counsel using the Court’s Order would be inconsistent with the Court’s discussion of those types of communications:

[I]t is important to note that different types of documents or communications implicate the independence interest in different ways. Communications between staff and legislators are particularly sensitive because they “are often devoted to discussing ideas to which neither party to the communication is committed for purposes of legislative action – such as testing the soundness of ideas by positing wide-ranging positions.”

ECF No. 153 at 15 (quoting *Benisek v. Lamone*, 241 F. Supp. 3d 566, 576 (D. Md. 2017)). On this issue, the communications challenged by Plaintiffs are not between legislators, they are between legislators and staff counsel or between staff counsel in the performance of the duties as attorneys to a legislative body. *See* ECF No. 198 at 11 & 198-9. It is noteworthy that there is no suggestion by Plaintiffs that the communications—which are with and between persons who do not vote on legislation—are not alleged to be “direct evidence of specific intent” as defined in the Court’s Order as the scope of disclosure for such communications. ECF No. 153 at 15.

## **ARGUMENTS**

### **I. RESPONSE TO LEGAL STANDARD**

As noted earlier, it is apparent from the slipshod presentation of legal precedent that Plaintiffs lack a procedural basis to allow the expanded discovery they now seek. Presented as the “Standard for Motion to Enforce and for *In Camera* Review,” Plaintiffs proceed to identify the

broad scope of discovery under FRCP 26, the definition of relevancy, and posit “the burden is on the party resisting discovery to clarify and explain properly why its objections are proper given the broad and liberal construction of the federal discovery rules.” ECF No. 198 at 11-12 (quotation omitted). On this point it is clear, House Defendants have not “resisted discovery” nor have Plaintiffs pursued the sufficiency of House Defendants’ objections or earlier productions. Instead, Plaintiffs waited nearly two months to inquire into the nature and extent of House Defendants’ collection activities and passively complained of “concerns” without connecting them to any deficiency or providing legal authority to support expansion of discovery.

“Discovery rules are to be accorded a broad and liberal treatment to effect their purpose of adequately informing the litigants in civil trials. However, a litigant may not use discovery requests to annoy, embarrass, oppress, or cause an undue burden or expense to his opposing party. *Cunningham v. Wells Fargo & Co.*, No. 3:19-cv-00528-FDW, 2022 WL 109002 at \*4 (W.D.N.C. Jan. 11, 2022) (quotations omitted). “[I]t is well-settled law that “[d]iscovery should not become a ‘fishing expedition.’” *Id.* (quoting *Cohn v. Bond*, 953 F.2d 154, 159 (4th Cir. 1991)). Here, Plaintiffs have demonstrated nothing more than a desire to continue fishing.

## **II. HOUSE DEFENDANTS FULLY COMPLIED WITH ECF NO. 153**

House Defendants have fully complied with the February 10, 2022 Order (ECF No. 153) by producing the documents and information ordered by the Court in their possession, custody, or control that relate to any alleged discriminatory intent behind the Challenged Districts enacted in Act No. 117, with only those documents protected by the attorney-client privilege and/or work product protection not produced. House Defendants have searched for, collected, and produced hard copy documents and information, map files and attendant metadata from the Map Room computers, ESI collected from 8 (soon to be 14) custodians, and maps and data from the last three

redistricting cycles. As noted above, Plaintiffs’ shell game conspiracy theory that there “must” be more documents related to the issue of discriminatory intent—for no other reason than there is no basis to believe House Defendants acted with discriminatory intent—is not grounds to expand discovery even further beyond the applicable rules. Similarly, there is no basis to demand named House Defendants (parties in their official capacities) surrender for inspection their personal e-mail accounts used in their law practice or require them to obtain e-mails and other documents from non-party individual legislators that are clearly not within the named House Defendants’ possession, custody, or control.

Other than the receipt of scheduling or administrative information by their non-House e-mail accounts (which have been captured and produced from the sending custodian’s PST files), there is no evidence or indication of potential evidence of communications in personal e-mail accounts that “provide ‘direct evidence of specific intent.’” ECF No. 153 at 16. Notably, this is a more stringent process than that which Plaintiffs’ have employed for either Plaintiff Scott or Plaintiff SC NAACP.<sup>15</sup> Plaintiffs’ conduct is particularly noteworthy because it demonstrates a refusal to undertake even minimal participation while seeking to impose on House Defendants expansive obligations above and beyond the requirements of the rules.

Federal Rule of Civil Procedure 26(b)(1) allows parties to obtain discovery regarding “any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs

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<sup>15</sup> No PST files were collected, no search terms were employed, and no attorneys were involved in the review of documents for relevancy or to determine whether documents were being inappropriately overlooked by Plaintiff Scott. *See* ECF No. 198, 4-5. For SC NAACP, Plaintiffs’ counsel have refused to collect or produce discoverable information from any e-mail account other than an “SC NAACP” account, which was not used in a meaningful way during the redistricting activities that underlie this litigation. Plaintiff SC NAACP President Murphy’s routine and regular use of her personal (non-business) e-mail account is clear from the wealth of e-mail communications produced by the South Carolina League of Women Voters in response to House Defendants’ Subpoena. *See e.g.* ECF No. 201-8.

of the case . . . .” Fed. R. Civ. P. 26(b)(1). However, it is still incumbent on Plaintiffs to make some showing of discoverability of the information sought. *See, e.g., Waters v. Stewart*, C/A No. 4:15-4143-RBH-TER, 2017 WL 770535, at \*2 (D.S.C. Feb. 28, 2017) (citations omitted) (“Where a prima facie showing of discoverability has been made by the party seeking discovery, the burden shifts . . . to the resisting party to show lack of relevance . . . .”). Plaintiffs offer nothing more than uninformed hopes and pipedreams of supposedly hidden data, while simultaneously subverting and avoiding equal participation in the truth-seeking activities of discovery.

On the specific issue of the personal devices and e-mail accounts of the House Defendants, it is important to note that the two cases referenced by Plaintiffs have zero relevance to this proceeding. *See* ECF No. 198 at 15. In *Modern Remodeling, Inc. v. Tripod Holdings, LLC*, No. CCB-19-1397, 2020 WL 1984338 (D. Md. 2020), the parties were in agreement that relevant texts existed within the discovery at issue and there is no discussion of personal e-mail accounts at all. In *Thomas v. Roberts*, No. 1:16-cv-01581-ALJ-MSN, 2017 WL 11503455 (E.D. Va. May 18, 2017), an individual plaintiff was ordered to produce e-mails that were referenced in the complaint yet had not appeared within his discovery productions. Indeed, *Thomas* is much more applicable to Plaintiffs here and their discovery shortcomings than to the legislative officers being sued.

In contrast, more meaningful precedent would be a recent decision of United States Magistrate Judge Shiva V. Hodges in *Quillin v. Simon*, No. CV 3:20-3063-CMC-SVH, 2020 WL 6469269 (D.S.C. Nov. 3, 2020), in which the plaintiff sought “all mobile phone records for certain officers” for a discrete time period. *Id.* at \*2. The defendant, a police officer sued in his official capacity, objected on the basis that “the request is overly broad, unduly burdensome, seeks the production of documentation that is wholly irrelevant to the matters at issue in this litigation, and is not reasonably calculated to lead to the discovery of admissible evidence.” *Id.* The defendant

also maintained that “[p]ersonal cell phone information would reveal countless personal information about these law enforcement officers, without any likelihood of producing relevant and/or admissible evidence, nor would it be likely to lead to the discovery of admissible evidence.”

*Id.* The court agreed, finding “Plaintiff has failed to identify, or discuss in briefing at all, the relevance of the information requested nor has Plaintiff addressed Defendant’s argument that any potential relevance would be greatly outweighed by” the revelation of personal information, which could lead to safety concerns. *See id.*

In a recent decision from the District of Maryland, a plaintiffs’ requests to a corporate defendant for “[a]ll emails, text messages, and other written or electronic communications . . .” of senior management were found overbroad and the court would “not order the production of text messages” on personal devices. *Shackleford v. Vivint Solar Dev., LLC*, No. CV ELH-19-954, 2020 WL 6273892, at \*5 (D. Md. Oct. 26, 2020). The corporation did not have possession or custody of employees’ personal devices and the court noted that even if it accepted a very expansive view of discovery, it was “unconvinced that plaintiff has met her burden to establish the text messages are proportional to the needs of the case.” *Id.* “Not only would this be a potential invasion of privacy . . ., but it would be expensive and time-consuming,” and it was “unclear whether it would yield any benefit to plaintiff.” *Id.* The court concluded that “[t]o the extent a search of the phones did result in some relevant information, its likely benefit is outweighed by the burden and expense of obtaining it.” *Id.*

Here, the House Defendants have House-issued desktop computers and any redistricting-related information has been produced from those computers. Similar to the facts in *Shackleford*, the House does not issue cell phones and the individual legislators may use their personal cell phones for House-related reasons. The personal cell phones and personal e-mail accounts of House

Defendants are the devices and accounts that they use in their profession—all three named House Defendants are attorneys by trade and long-standing members of the South Carolina Bar, and each regularly and routinely uses his cell phone and personal e-mail account in his practice of law to communicate with his clients and represent their legal interests. Akin to the circumstances in *Quillin*, there are very serious privacy concerns and ethical issues to consider before exposing the confidential information of attorneys (particularly given they have not been sued individually). Moreover, as in *Shackleford*, the burden of collecting, searching, and producing any potential communications, in this case at the cost of taxpayers, greatly outweighs any conceivable benefit to Plaintiffs. There is no showing or reasonable suggestion that text messages or personal e-mails of the named House Defendants would contain direct evidence of discriminatory intent of any kind as referenced in this Court’s Order. Thus, the time, burden, cost and privacy concerns, not to mention the very difficult ethical issues surround their clients’ rights to privilege, greatly weigh against the fishing expedition demanded by Plaintiffs.

### **III. HOUSE DEFENDANTS APPLIED COMPREHENSIVE SEARCH TERMS**

District Courts in this Circuit require “reasonable search terms to be used to obtain responsive email communications . . .” *E.E.O.C. v. McCormick & Schmick’s Seafood Restaurants, Inc.*, No. WMN-08-0984, 2012 WL 380048, at \*4 (D. Md. Feb. 3, 2012). House Defendants not only applied comprehensive search terms in the first instance, but prior to Plaintiffs’ filing of the Motion had agreed to implement additional search terms as requested during the meet and confer discussions. *See* ECF No. 198-5 at 7-8. House Defendants’ original search terms more than encompassed the relevant universe of documents related to redistricting, including broad concepts such as “population,” “deviation,” “reapportion\*,” and “majority-minority.” *See also infra*, n.7.

Evidenced by the e-mails attached to Plaintiffs’ Motion (and nearly six weeks after House Defendants served their written responses to Plaintiffs’ First Set of Requests for Production),

Plaintiffs for the first time on March 11, 2022 suggested that House Defendants should perform an additional review of the custodian files with 41 *additional search terms* that included such commonplace terms as county names and last names of sitting legislators (including “Johnson”). *See* ECF No. 198-8 at 5. While House Defendants would have been within reason to reject the demand out of hand, they agreed to assess the proposed terms and thereafter notified Plaintiffs of additional terms that would be applied, which additional terms were more practical, non-redundant, and reasonably anticipated to capture the concepts sought by Plaintiffs. *See* ECF No. 198-5 at 7. Here again, Plaintiffs’ Motion accuses House Defendants of being “unduly narrow” despite knowing the far more comprehensive list of terms first used by them, and then dismisses as insufficient that House Defendants had already articulated the specific additional terms that would be applied and which review is underway. *See id.*; *see also* ECF No. 198 at 15-16. Plaintiffs have failed to demonstrate in the first instance that even greater burden should be imposed, much less that such burden is obligated by the Court’s Order.

#### **IV. HOUSE DEFENDANTS HAVE COLLECTED RESPONSIVE DOCUMENTS ON HOUSE-ISSUED HARD DRIVES**

Citing only to their own false narrative, Plaintiffs ask the Court to order House Defendants “to conduct a forensic review of their legislative hard drives to ensure all relevant information contained therein are collected and reviewed.” ECF No. 198 at 16. There is no basis to support the time, cost, and burden of forensic review of the *desktop* computers maintained in the Blatt Building, as each of the named House Defendants has confirmed that there are no redistricting-related documents or communications saved or stored on those computers. Plaintiffs are in possession of the map files and attendant metadata from the Map Room computers, and there is no reasonable basis or credible reason to believe further “forensic review” activities would reveal new or different information. As explained to Plaintiffs, the named House Defendants did not use

their House-issued desktop computers to create, save, or otherwise preserve documents related to redistricting. The Challenged Districts (as all the other districts) were drawn in the Map Room. As noted above, the map files and attendant metadata from the Map Room computers have been produced. Particularly given it appears Plaintiffs have failed to perform even a cursory review of the more than 6,000 documents stored by the Map Room computers, there is plenty of material for Plaintiffs to review in preparation for depositions. A forensic collection and review of House Defendants' hard drives will not yield any benefit and would be extremely burdensome, expensive, and time-consuming. The Court should decline Plaintiffs' unsubstantiated request for more.

#### **V. HOUSE DEFENDANTS HAVE SEARCHED PST FILES OF KEY STAFFERS**

Plaintiffs next demand that “[t]o the extent that House Defendants have not searched the PST files of key staffers, House Defendants’ should be ordered to do so in order to meet their obligations under Rule 34.” ECF No. 198 at 16. It has been done; Plaintiffs should review the productions that have been made by House Defendants before burdening the Court with their unjustified demands, as House Defendants have complied with their discovery obligations<sup>16</sup> as it relates to key staff members and Plaintiffs’ speculative conjecture otherwise lacks merit.

#### **VI. HOUSE DEFENDANTS PRODUCED THE ELECTRONIC MAP DATA**

As discussed above, House Defendants produced the electronic records comprising the maps drawn in the Map Room (gigabytes of electronic data), although it appears Plaintiffs have

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<sup>16</sup> House Defendants’ collection efforts in this regard stand in clear contrast to those of Plaintiffs, who have only collected the PST files of four custodians for Plaintiff SC NAACP: President Brenda Murphy (her @scaacp.org account), two administrative assistants, and one custodial office manager account. There was no collection or review of Plaintiff Scott’s PST file (a non-attorney party that simply self-selected from his e-mails) and no collection or review of the e-mail accounts used by SC NAACP’s leadership, including (i) President Brenda Murphy; (ii) participants in the South Carolina Reapportionment Committee Meetings, such as Chair Steve Love, Chair Charles Boykin, and Dr. Eloise Fomby-Denson, (iii) attendees at the Executive Committee Meetings (*see* SCNAACP\_001666), or (iv) any of those individuals identified as persons with knowledge or on whom SC NAACP relied in the discovery responses (*see* ECF No. 194-1).

egregiously failed to review this data in the nearly six weeks since production. *See* Exhibit B. Plaintiffs are inexplicably asleep at the wheel on their discovery obligations in this case. Their lack of diligence is not reason for this Court to find House Defendants have not more than satisfied their obligations under the discovery rules and the Court's Order.

**VII. LAWYERS EMPLOYED BY THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES PROVIDE LEGAL ADVICE TO THEIR LEGISLATOR CLIENTS**

As a threshold matter, the Court should decline to undertake any assessment of privilege issues unless and until Plaintiffs are held to task for the privilege shenanigans they are presently engaged in (ECF No. 201, 5-9). Explored in House Defendants' Reply to their Motion to Compel, Plaintiffs are taking facially inconsistent positions with regard to privilege (and waiver). Moreover, House Defendants are further refining their privilege log in accordance with the previous discussions with Plaintiffs and intend to supplement and amend the log by April 4, 2022, with the expectation that additional items will be downgraded from the last circulated version.

**A. An Attorney-Client Relationship Exists Between Staff Attorneys and Legislators.**

The South Carolina House of Representatives employs a number of attorneys who serve "as lawyers" for legislators and serve in other capacities providing legal services on behalf of the House. Because these employed attorneys serve "as lawyers" and provide legal advice to legislators, there is an attorney-client relationship and the occasion for an attorney-client privilege. *United States v. Jones*, 696 F.2d 1069, 1072 (4th Cir. 1982) (per curiam). Plaintiffs' suggestion that these attorneys are not acting "as lawyers" is incorrect and insolent. For example, district courts in this Circuit have upheld claims of attorney client privilege on documents that were the subject of a subpoena issued to legal counsel to the Speaker of the Virginia House of Delegates. *See Page v. Virginia State Bd. of Elections*, 15 F. Supp. 3d 657, 660 (E.D. Va. 2014). Plaintiffs

presuppose that just because there is some connection to legislative conduct, the legal advice cannot be privileged; this is not so.

Plaintiffs supposition also ignores that the internal counsel, primarily General Counsel Mr. Dennis and Chief Counsel to Judiciary Ms. Dean, are a primary liaison between House Defendants and outside legal counsel. As discussed further in the following section on work product, Mr. Dennis and Ms. Dean would share legal advice and work product from outside counsel to House Defendants during the time period applicable to this litigation.

**B. Staff Attorneys and Outside Counsel Created Work Product in Anticipation of Litigation.**

It should be no surprise that staff counsel and outside counsel prepared and disseminated to their clients work product containing attorney mental impressions and opinions in anticipation of and during this redistricting litigation. Indeed, House Defendants very reasonably anticipated litigation over this redistricting plan early on from these very Plaintiffs, clearly forewarned by the lengthy accusatory letters that first appeared on August 9, 2021, before any of the public hearings even began. It was clear from the tone of SC NAACP's letter, coupled with the well-known susceptibility to redistricting litigation in South Carolina (detailed in Plaintiffs' own writings) that litigation was certain regardless of what the House District boundaries looked like.

Consequently, a number of the privilege log entries represent work product drafted by outside counsel and disseminated to their clients. That the work product was first sent to Ms. Dean to then forwarded to the individual Ad Hoc Committee Members represented by outside counsel is all in the proper course and analogous to outside counsel sending legal advice or work product through an in-house counsel, who forwards it to the client. Work product protection is not waived by doing so. Plaintiffs offer no reason why House Defendants are not entitled to the work product protection and the Court should decline to conduct any review of privilege log entries at this time,

and certainly not without more credibility and candor by Plaintiffs.

**CONCLUSION**

House Defendants have fully complied with the Court's February 10, 2022 Order (ECF No. 153) and will make good faith efforts to amend their privilege log. As such, no *in camera* review of the current privilege log is necessary. Therefore, based on the foregoing, the Court should deny Plaintiffs' Motion in its entirety.

*[SIGNATURE PAGE FOLLOWS]*

Respectfully submitted,

/s/ Mark C. Moore

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March 28, 2022  
Columbia, South Carolina

*Attorneys for James H. Lucas, Chris Murphy, and  
Wallace H. Jordan*

# **Exhibit A**

**(February 14, 2022 Production Letter)**

February 14, 2022

**VIA ELECTRONIC MAIL ONLY**

Christopher J. Bryant, Esq.  
Boroughs Bryant, LLC  
1122 Lady Street, Ste. 208  
chris@boroughsbryant.com

**Re: South Carolina State Conference of the NAACP, et al., v.  
Alexander, et al.  
Case No. 3:21-cv-03302-JMC-TJH-RMG**

Dear Chris,

On behalf of our clients James H. Lucas, in his official capacity as Speaker of the House of Representatives, Chris Murphy, in his official capacity as Chairman of the House of Representatives Judiciary Committee, and Wallace H. Jordan, in his official capacity as Chairman of the House of Representatives Redistricting Ad Hoc Committee (collectively, the "House Defendants"), this letter serves to address the production of documents and information that have occurred to date and are forthcoming following Judge Childs' Order of February 10, 2022 (ECF No. 153).

As you are aware, the House Defendants have made seven (7) productions to Plaintiffs since January 25, 2022, generally comprised of the following categories of information as requested in Plaintiffs' discovery requests:

First: Emails from the [Redistricting@SCHouse.gov](mailto:Redistricting@SCHouse.gov) account (1,852 documents Bates labeled SC\_HOUSE\_0000001-0010047)

Second: Documents and information from the House Redistricting websites from the 2001, 2011, and 2021 redistricting cycles (2,362 documents Bates labeled SC\_HOUSE\_0010047-0035735)

Third: Legislative manuals dating to 1980 as requested in Plaintiffs' Request for Production No. 3

- Austin
- Charleston
- Charlotte
- Columbia**
- Greensboro
- Greenville
- Bluffton / Hilton Head
- Myrtle Beach
- Raleigh

(158 documents Bates labeled SC\_HOUSE\_0035736-0061491)

Fourth: Videos of public hearings and files from the South Carolina Election Commission

(32 documents Bates labeled SC\_HOUSE\_0061492-0061523)

Fifth: Documents and information related to public hearings of the House Redistricting Ad Hoc Committee

(91 documents Bates labeled SC\_HOUSE\_0061524-0062043)

Sixth: Emails, documents and information of legislators and legislative counsel related to the 2021 redistricting cycle and the development, design and/or revision of H. 4493 and the House Districts adopted therein (Custodians: Rep. Lucas, Rep. Murphy, Rep. Jordan, General Counsel Dennis, Chief Counsel to House Judiciary Committee Dean)

(2,031 documents Bates labeled SC\_HOUSE\_0062044-0091616)

Seventh: Emails, documents and information that compromise the files of House Defendants' expert witnesses: Brunell, Trende, and Woodard.

(245 documents Bates labeled SC\_HOUSE\_0091233-0092808)

With regard to the categories of documents, communications and information that would "broadly address the issue of discriminatory intent in the present redistricting cycle" as identified in the February 10 Order, despite Plaintiffs not undertaking any effort to meet and confer on the scope of Plaintiffs' requests, I offer the following observations and information in accordance with that Order:

1. House Defendants remain amenable to presenting the House witnesses for deposition prior to the close of the discovery period.
2. House Defendants' Eighth Production accompanies this letter and produces the 259 draft maps of House Districts prepared by House Members prior to the enactment of H. 4493, as well as the 236 population data worksheets that accompanied draft maps. These documents were maintained at the House in the Map Room in printed form and are identified as Item Numbers 1 through 495 on the Privilege Log of House Defendants. The Bates range is SC\_HOUSE\_0091617-0091232.

Separately, we are finalizing for production to Plaintiffs the electronic versions of maps and related data created during the course of the development, design and/or revision of H. 4493. While we expect it may take another 24 hours to

finalize the production set, we can make the electronic files themselves available for your review this afternoon in the interim.

3. House Defendants are unclear what documents the Court or Plaintiffs may consider to be related “in any manner to the intent” behind any proposed design and/or revisions of H. 4493 or any Challenged District in Plaintiffs’ Second Amended Complaint, but we believe the productions through today comport with the expectations of this item.
4. House Defendants have produced documents related to any racially polarized voting analysis generated during the development, design and/or revision of H. 4493 that are not protected by attorney/client privilege and/or the work product doctrine.
5. House Defendants have previously provided the information sought by this item in answers to Plaintiffs’ interrogatories.
6. House Defendants have previously provided documents produced and/or provided by persons not legislators or staff which relate to the development, design and/or revision of H. 4493.
7. House Defendants are unclear what the Court would consider to fall in this category of “documents which address any changes in districts from the existing House Plan to H. 4493;” however, as of today’s date House Defendants have produced the responsive documents known to House Defendants, including those identified as legislatively privileged on House Defendants’ Privilege Log, and have only withheld those documents that are attorney/client privileged and/or work product.

In addition to the foregoing, we are producing emails and attachments that were identified as legislatively privileged on House Defendants’ Privilege Log, these are marked CONFIDENTIAL and Bates labeled SC\_HOUSE\_0092809-0093043. As you know, the production of draft maps and legislatively privileged documents and communications is over the strong objection of House Defendants and solely as a result of the Court’s Order on Plaintiffs’ Motion to Compel. These productions and disclosures are made with full reservation of House Defendants’ rights to address the discovery rulings on appeal and do not represent a waiver of any rights in this proceeding or future proceedings on the issue of legislative privilege.

Christopher J. Bryant, Esq.  
February 14, 2022  
Page 4

Finally, please be sure that any counsel that have appeared on behalf of Plaintiffs since entry of the Consent Confidentiality Order (ECF No. 123) familiarize themselves with the restrictions and obligations on the part of counsel and the parties as relate to documents marked CONFIDENTIAL.

Please let me know if you'd like to review the electronic map room files this afternoon.

Very truly yours,



Jennifer J. Hollingsworth

cc: Counsel of Record

# **Exhibit B**

**(February 15, 2022 Production Letter)**

February 15, 2022

**DELIVERED VIA EMAIL**

Chris Bryant  
Boroughs Bryant, LLC  
1122 Lady Street, Suite 208  
Columbia, SC 29201  
[chris@boroughsbryant.com](mailto:chris@boroughsbryant.com)

Re: House Defendants' Ninth Production

Dear Chris:

On behalf of Defendants James H. Lucas (in his official capacity as Speaker of the South Carolina House of Representatives), Chris Murphy (in his official capacity as Chairman of the South Carolina House of Representatives Judiciary Committee), and Wallace H. Jordan (in his official as Chairman of the South Carolina House of Representatives Redistricting Ad Hoc Committee) (collectively, the "House Defendants"), we are producing a ninth set of documents to Plaintiffs. This production is pursuant to the Court's Order of February 10, 2022, and contains documents referenced in my letter yesterday in paragraph 2 on pages 2 and 3 – the electronic versions of maps and related data created during the redistricting process prior to the enactment of Act No. 117. This production is made pursuant to the terms I discussed in my letter with regard to protest, reservation of rights, and non-waiver.

Considering the highly confidential nature of these materials, this ninth production is sent via FTP to Plaintiffs' lead counsel, from which you all can determine what other counsel of record for Plaintiffs, if any, should have access to these documents under the Consent Confidentiality Order. The production includes 6,172 documents totaling 7,233 pages Bates labelled **SC\_HOUSE\_0093044 – SC\_HOUSE\_0100276**.

Please let us know if you have any questions or concerns.

Austin  
Charleston  
Charlotte  
**Columbia**  
Greensboro  
Greenville  
Bluffton / Hilton Head  
Myrtle Beach  
Raleigh

Chris Bryant  
February 15, 2022  
Page 2

Very truly yours,



Jennifer J. Hollingsworth

cc: Allen Chaney  
John Cusick  
Leah Aden  
Somil Trivedi  
Adriel Cepeda Derieux

# **Exhibit C**

**(Plaintiffs' Subpoenas)**

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the
District of South Carolina

S.C. State Conference of the NAACP, et. al,

Plaintiff

v.

Thomas C. Alexander, et. al.

Defendant

Civil Action No. 3:21-cv-03302-JMC-TJH-RMG

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

To: Wm. Weston J. Newton, South Carolina State Representative

(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 attached.

Table with 2 columns: Place (Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201) and Date and Time (03/31/2022 12:00 pm)

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.

Table with 2 columns: Place and Date and Time (empty)

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: 03/17/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

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

South Carolina State Conference of the NAACP, Taiwan Scott, who issues or requests this subpoena, are:

Christopher Bryant, tel.: (843) 779-5444, chris@boroughsbryant.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, 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. 3:21-cv-03302-JMC-TJH-RMG

**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**

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
WM. WESTON J. NEWTON, SOUTH CAROLINA STATE REPRESENTATIVE**

For a statement of your obligation in producing documents under this subpoena see Rule 45(e), and (g) of the Federal Rules of Civil Procedure (“Rule”), which appear on the final page of the subpoena. Documents should be produced on or before March 30, 2022. To make arrangements for electronic production, contact Christopher Bryant, Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201, tel.: (843) 779-5444, chris@boroughsbryant.com. The production should be made pursuant to the Definitions and Instructions below.

**DEFINITIONS**

As used herein, the following terms have the following meanings:

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina House of Representative Districts 7, 8, 9, 11, 41, 43, 51, 54, 55, 57, 59, 60, 63, 67, 70, 72, 73, 74, 75, 76, 77, 78, 79, 90, 91, 93, 101, 105.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee chaired by Senator Rankin.

5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or purporting to act on the Committees’ behalf or subject to the Committees’ control or is involved in the redistricting work of the committees related to H. 4493.
6. “COMMUNICATIONS” means the transmittal of information of any kind by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, written reports, letters, and the like.
7. “DISTRICTS BORDERING THE CHALLENGED DISTRICTS” mean South Carolina House of Representative Districts that border in whole or in part the Challenged Districts.
8. “DOCUMENT” or “DOCUMENTS” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 and the phrase “writings and recordings” as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases,

electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers, charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, 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, whether used or not; 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 your possession, custody or control or any of your attorneys, employees, agents, or representatives.

a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

9. “H. 4493” refers to House Bill 4493 as ratified by the South Carolina General Assembly on December 9, 2021, and signed by the Governor of South Carolina on December 10, 2021, and refers to the bill as a whole and/or to any provision thereof.
10. “MAP ROOM” refers to the virtual and physical room and the process for the development, design, and and/or revisions of proposed and draft state House legislative redistricting maps, H. 4493, and predecessor maps (as defined below) by the South Carolina General Assembly.
11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.
12. “PREDECESSOR MAPS” means any previous South Carolina House of Representative redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53, n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “THIRD PARTIES” refers to but is not limited to persons and entities who are political consultants, Republican and Democrat party officials, South Carolina state officials,

lobbyists, members of the public, and legislative aides not in the employment of Defendants.

16. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American, or is a member of any other racial minority group, who is eligible or could be eligible to vote.

### **INSTRUCTIONS**

1. The responsive documents should be produced in the manner prescribed by the Rules and any applicable laws or rules.
2. Under Rule 34(b)(2)(B) & (C), if any part of the Request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified. Any ground not stated will be waived.
3. If, in responding to this request, You encounter any ambiguities when construing a request or definition, set forth in Your response what you find ambiguous and the construction You used in responding.
4. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.
5. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of

your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.

6. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
7. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.
8. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must 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.
9. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
10. If any requested document is not or cannot be produced in full, you shall produce it to extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
11. Each document produced must include all attachments and enclosures.

12. Documents attached to each other shall not be separated.
13. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.
14. In accordance with Rule 34(b), all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.
15. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.
16. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
17. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part

thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.

18. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. 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 load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (\*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level.
19. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:
  - a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and

- b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.
20. If any document is withheld, in whole or in part, under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, deliberative process privilege, or investigative or law enforcement privilege, your answer should provide the following information in a single log:
  - a. the type of document;
  - b. the date of the document;
  - c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
  - d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;
  - e. its title and reference, if any;
  - f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;
  - g. the type of privilege asserted;
  - h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and
  - i. the paragraph of this request to which the document relates.
21. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if

propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

22. These document requests cover the period from January 1, 2021 to the present, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even though dated, prepared, generated, or received prior to this period.
23. These document requests are continuing in nature and require further and supplemental production if additional documents are acquired and located following the time of the initial production, to the fullest extent under the Rules and any applicable laws or rules.

### **DOCUMENTS REQUESTED**

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

All documents and communications concerning the districts adopted in H. 4493 and Predecessor Maps, including but not limited to all communications with and documents or data provided to, considered, or relied upon by persons who drew, reviewed, approved, or adopted the determination to draw districts as reflected in H. 4493 and Predecessor Maps.

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

All maps, draft maps, memoranda, reports, analyses, correspondence, or other documents concerning the drawing of the districts adopted in H. 4493 and Predecessor Maps. This request includes, but is not limited to, documents concerning the Racially Polarized voting in the South Carolina electorate, state legislative districts, the role of race in drawing districts, and correspondence between or among You, individuals on any Committee, any map drawers, experts, legislators, members of the South Carolina Legislature, or anyone else concerning the drawing of the districts or any draft maps of the districts considered but not adopted.

**REQUEST FOR PRODUCTION NO. 3:**

All documents and communications sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 4:**

All transcripts, minutes, notes, or other documents concerning any meetings of Committees and any in connection with or in furtherance the adoption of H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 5:**

All documents and communications concerning the rationale(s) or purpose(s) behind the Challenged Districts and Districts Bordering the Challenged Districts adopted in H. 4493 and any Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 6:**

All documents and communications concerning statements in support of or opposition to H. 4493 and any Predecessor Maps, including in support of or opposition to any proposed amendments.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications concerning the impact or potential impact of H. 4493 and any Predecessor Maps on voters of color.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications regarding any concerns, complaints, or comments about the procedure and transparency of the Committees' redistricting process used in the considerations and deliberations regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees, and organizations and third parties, including the National Republican Redistricting Trust and Fair Lines America, regarding H. 4493, Predecessor Maps, and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees and third parties, concerning the Map Room regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications concerning the Map Room and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications concerning oral and written testimony, public comments, and other documents submitted before, during, or after any South Carolina legislative hearing, any Committee meetings, and any House or Senate floor review of H. 4493 and Predecessor Maps.

[SIGNATURE ON FOLLOWING PAGE]

Dated: March 16, 2022

Leah C. Aden\*\*  
Stuart Naifeh\*\*  
Raymond Audain\*\*  
John S. Cusick\*\*  
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\* Motion for admission Pro Hac Vice  
forthcoming

\*\* Admitted Pro Hac Vice

Respectfully submitted,

/s/ Christopher J. Bryant  
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\* Motion for admission *Pro Hac Vice*  
forthcoming

\*\* Admitted *Pro Hac Vice*

*Counsel for Plaintiff the South Carolina  
Conference of the NAACP*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

*/s/ Christopher Bryant*  
Christopher Bryant

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
District of South Carolina

S.C. State Conference of the NAACP, et. al,

Plaintiff

v.

Thomas C. Alexander, et. al.

Defendant

Civil Action No. 3:21-cv-03302-JMC-TJH-RMG

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

To: Justin T. Bamberg, South Carolina State Representative

(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 attached.

Table with 2 columns: Place (Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201) and Date and Time (03/31/2022 12:00 pm)

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.

Table with 2 columns: Place and Date and Time (empty)

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: 03/17/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) South Carolina State Conference of the NAACP, Taiwan Scott, who issues or requests this subpoena, are: Christopher Bryant, tel.: (843) 779-5444, chris@boroughsbryant.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, 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. 3:21-cv-03302-JMC-TJH-RMG

**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**

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
JUSTIN T. BAMBERG, SOUTH CAROLINA STATE REPRESENTATIVE**

For a statement of your obligation in producing documents under this subpoena see Rule 45(e), and (g) of the Federal Rules of Civil Procedure (“Rule”), which appear on the final page of the subpoena. Documents should be produced on or before March 30, 2022. To make arrangements for electronic production, contact Christopher Bryant, Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201, tel.: (843) 779-5444, chris@boroughsbryant.com. The production should be made pursuant to the Definitions and Instructions below.

**DEFINITIONS**

As used herein, the following terms have the following meanings:

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina House of Representative Districts 7, 8, 9, 11, 41, 43, 51, 54, 55, 57, 59, 60, 63, 67, 70, 72, 73, 74, 75, 76, 77, 78, 79, 90, 91, 93, 101, 105.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee chaired by Senator Rankin.

5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or purporting to act on the Committees’ behalf or subject to the Committees’ control or is involved in the redistricting work of the committees related to H. 4493.
6. “COMMUNICATIONS” means the transmittal of information of any kind by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, written reports, letters, and the like.
7. “DISTRICTS BORDERING THE CHALLENGED DISTRICTS” mean South Carolina House of Representative Districts that border in whole or in part the Challenged Districts.
8. “DOCUMENT” or “DOCUMENTS” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 and the phrase “writings and recordings” as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases,

electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers, charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, 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, whether used or not; 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 your possession, custody or control or any of your attorneys, employees, agents, or representatives.

a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

9. “H. 4493” refers to House Bill 4493 as ratified by the South Carolina General Assembly on December 9, 2021, and signed by the Governor of South Carolina on December 10, 2021, and refers to the bill as a whole and/or to any provision thereof.
10. “MAP ROOM” refers to the virtual and physical room and the process for the development, design, and and/or revisions of proposed and draft state House legislative redistricting maps, H. 4493, and predecessor maps (as defined below) by the South Carolina General Assembly.
11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.
12. “PREDECESSOR MAPS” means any previous South Carolina House of Representative redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53, n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “THIRD PARTIES” refers to but is not limited to persons and entities who are political consultants, Republican and Democrat party officials, South Carolina state officials,

lobbyists, members of the public, and legislative aides not in the employment of Defendants.

16. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American, or is a member of any other racial minority group, who is eligible or could be eligible to vote.

### **INSTRUCTIONS**

1. The responsive documents should be produced in the manner prescribed by the Rules and any applicable laws or rules.
2. Under Rule 34(b)(2)(B) & (C), if any part of the Request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified. Any ground not stated will be waived.
3. If, in responding to this request, You encounter any ambiguities when construing a request or definition, set forth in Your response what you find ambiguous and the construction You used in responding.
4. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.
5. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of

your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.

6. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
7. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.
8. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must 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.
9. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
10. If any requested document is not or cannot be produced in full, you shall produce it to extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
11. Each document produced must include all attachments and enclosures.

12. Documents attached to each other shall not be separated.
13. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.
14. In accordance with Rule 34(b), all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.
15. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.
16. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
17. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part

thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.

18. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. 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 load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (\*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level.
19. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:
  - a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and

- b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.
20. If any document is withheld, in whole or in part, under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, deliberative process privilege, or investigative or law enforcement privilege, your answer should provide the following information in a single log:
  - a. the type of document;
  - b. the date of the document;
  - c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
  - d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;
  - e. its title and reference, if any;
  - f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;
  - g. the type of privilege asserted;
  - h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and
  - i. the paragraph of this request to which the document relates.
21. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if

propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

22. These document requests cover the period from January 1, 2021 to the present, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even though dated, prepared, generated, or received prior to this period.
23. These document requests are continuing in nature and require further and supplemental production if additional documents are acquired and located following the time of the initial production, to the fullest extent under the Rules and any applicable laws or rules.

### **DOCUMENTS REQUESTED**

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

All documents and communications concerning the districts adopted in H. 4493 and Predecessor Maps, including but not limited to all communications with and documents or data provided to, considered, or relied upon by persons who drew, reviewed, approved, or adopted the determination to draw districts as reflected in H. 4493 and Predecessor Maps.

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

All maps, draft maps, memoranda, reports, analyses, correspondence, or other documents concerning the drawing of the districts adopted in H. 4493 and Predecessor Maps. This request includes, but is not limited to, documents concerning the Racially Polarized voting in the South Carolina electorate, state legislative districts, the role of race in drawing districts, and correspondence between or among You, individuals on any Committee, any map drawers, experts, legislators, members of the South Carolina Legislature, or anyone else concerning the drawing of the districts or any draft maps of the districts considered but not adopted.

**REQUEST FOR PRODUCTION NO. 3:**

All documents and communications sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 4:**

All transcripts, minutes, notes, or other documents concerning any meetings of Committees and any in connection with or in furtherance the adoption of H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 5:**

All documents and communications concerning the rationale(s) or purpose(s) behind the Challenged Districts and Districts Bordering the Challenged Districts adopted in H. 4493 and any Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 6:**

All documents and communications concerning statements in support of or opposition to H. 4493 and any Predecessor Maps, including in support of or opposition to any proposed amendments.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications concerning the impact or potential impact of H. 4493 and any Predecessor Maps on voters of color.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications regarding any concerns, complaints, or comments about the procedure and transparency of the Committees' redistricting process used in the considerations and deliberations regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees, and organizations and third parties, including the National Republican Redistricting Trust and Fair Lines America, regarding H. 4493, Predecessor Maps, and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees and third parties, concerning the Map Room regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications concerning the Map Room and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications concerning oral and written testimony, public comments, and other documents submitted before, during, or after any South Carolina legislative hearing, any Committee meetings, and any House or Senate floor review of H. 4493 and Predecessor Maps.

[SIGNATURE ON FOLLOWING PAGE]

Dated: March 16, 2022

Leah C. Aden\*\*  
Stuart Naifeh\*\*  
Raymond Audain\*\*  
John S. Cusick\*\*  
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\* *Motion for admission Pro Hac Vice  
forthcoming*

\*\* *Admitted Pro Hac Vice*

Respectfully submitted,

/s/ Christopher J. Bryant  
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Conference of the NAACP and Taiwan Scott*

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\* Motion for admission *Pro Hac Vice*  
forthcoming

\*\* Admitted *Pro Hac Vice*

*Counsel for Plaintiff the South Carolina  
Conference of the NAACP*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

*/s/ Christopher Bryant*  
Christopher Bryant

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
District of South Carolina

S.C. State Conference of the NAACP, et. al,

Plaintiff

v.

Thomas C. Alexander, et. al.

Defendant

Civil Action No. 3:21-cv-03302-JMC-TJH-RMG

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

To: Jason Elliott, South Carolina State Representative

(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 attached.

Table with 2 columns: Place (Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201) and Date and Time (03/31/2022 12:00 pm)

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.

Table with 2 columns: Place and Date and Time (empty)

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: 03/17/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) South Carolina State Conference of the NAACP, Taiwan Scott, who issues or requests this subpoena, are: Christopher Bryant, tel.: (843) 779-5444, chris@boroughsbryant.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, 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).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 3:21-cv-03302-JMC-TJH-RMG

**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**

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
JASON ELLIOTT, SOUTH CAROLINA STATE REPRESENTATIVE**

For a statement of your obligation in producing documents under this subpoena see Rule 45(e), and (g) of the Federal Rules of Civil Procedure (“Rule”), which appear on the final page of the subpoena. Documents should be produced on or before March 30, 2022. To make arrangements for electronic production, contact Christopher Bryant, Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201, tel.: (843) 779-5444, chris@boroughsbryant.com. The production should be made pursuant to the Definitions and Instructions below.

**DEFINITIONS**

As used herein, the following terms have the following meanings:

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina House of Representative Districts 7, 8, 9, 11, 41, 43, 51, 54, 55, 57, 59, 60, 63, 67, 70, 72, 73, 74, 75, 76, 77, 78, 79, 90, 91, 93, 101, 105.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee chaired by Senator Rankin.

5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or purporting to act on the Committees’ behalf or subject to the Committees’ control or is involved in the redistricting work of the committees related to H. 4493.
6. “COMMUNICATIONS” means the transmittal of information of any kind by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, written reports, letters, and the like.
7. “DISTRICTS BORDERING THE CHALLENGED DISTRICTS” mean South Carolina House of Representative Districts that border in whole or in part the Challenged Districts.
8. “DOCUMENT” or “DOCUMENTS” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 and the phrase “writings and recordings” as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases,

electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers, charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, 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, whether used or not; 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 your possession, custody or control or any of your attorneys, employees, agents, or representatives.

a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

9. “H. 4493” refers to House Bill 4493 as ratified by the South Carolina General Assembly on December 9, 2021, and signed by the Governor of South Carolina on December 10, 2021, and refers to the bill as a whole and/or to any provision thereof.
10. “MAP ROOM” refers to the virtual and physical room and the process for the development, design, and and/or revisions of proposed and draft state House legislative redistricting maps, H. 4493, and predecessor maps (as defined below) by the South Carolina General Assembly.
11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.
12. “PREDECESSOR MAPS” means any previous South Carolina House of Representative redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53, n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “THIRD PARTIES” refers to but is not limited to persons and entities who are political consultants, Republican and Democrat party officials, South Carolina state officials,

lobbyists, members of the public, and legislative aides not in the employment of Defendants.

16. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American, or is a member of any other racial minority group, who is eligible or could be eligible to vote.

### **INSTRUCTIONS**

1. The responsive documents should be produced in the manner prescribed by the Rules and any applicable laws or rules.
2. Under Rule 34(b)(2)(B) & (C), if any part of the Request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified. Any ground not stated will be waived.
3. If, in responding to this request, You encounter any ambiguities when construing a request or definition, set forth in Your response what you find ambiguous and the construction You used in responding.
4. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.
5. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of

your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.

6. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
7. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.
8. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must 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.
9. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
10. If any requested document is not or cannot be produced in full, you shall produce it to extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
11. Each document produced must include all attachments and enclosures.

12. Documents attached to each other shall not be separated.
13. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.
14. In accordance with Rule 34(b), all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.
15. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.
16. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
17. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part

thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.

18. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. 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 load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (\*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level.
19. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:
  - a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and

- b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.
20. If any document is withheld, in whole or in part, under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, deliberative process privilege, or investigative or law enforcement privilege, your answer should provide the following information in a single log:
  - a. the type of document;
  - b. the date of the document;
  - c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
  - d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;
  - e. its title and reference, if any;
  - f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;
  - g. the type of privilege asserted;
  - h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and
  - i. the paragraph of this request to which the document relates.
21. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if

propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

22. These document requests cover the period from January 1, 2021 to the present, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even though dated, prepared, generated, or received prior to this period.
23. These document requests are continuing in nature and require further and supplemental production if additional documents are acquired and located following the time of the initial production, to the fullest extent under the Rules and any applicable laws or rules.

### **DOCUMENTS REQUESTED**

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

All documents and communications concerning the districts adopted in H. 4493 and Predecessor Maps, including but not limited to all communications with and documents or data provided to, considered, or relied upon by persons who drew, reviewed, approved, or adopted the determination to draw districts as reflected in H. 4493 and Predecessor Maps.

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

All maps, draft maps, memoranda, reports, analyses, correspondence, or other documents concerning the drawing of the districts adopted in H. 4493 and Predecessor Maps. This request includes, but is not limited to, documents concerning the Racially Polarized voting in the South Carolina electorate, state legislative districts, the role of race in drawing districts, and correspondence between or among You, individuals on any Committee, any map drawers, experts, legislators, members of the South Carolina Legislature, or anyone else concerning the drawing of the districts or any draft maps of the districts considered but not adopted.

**REQUEST FOR PRODUCTION NO. 3:**

All documents and communications sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 4:**

All transcripts, minutes, notes, or other documents concerning any meetings of Committees and any in connection with or in furtherance the adoption of H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 5:**

All documents and communications concerning the rationale(s) or purpose(s) behind the Challenged Districts and Districts Bordering the Challenged Districts adopted in H. 4493 and any Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 6:**

All documents and communications concerning statements in support of or opposition to H. 4493 and any Predecessor Maps, including in support of or opposition to any proposed amendments.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications concerning the impact or potential impact of H. 4493 and any Predecessor Maps on voters of color.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications regarding any concerns, complaints, or comments about the procedure and transparency of the Committees' redistricting process used in the considerations and deliberations regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees, and organizations and third parties, including the National Republican Redistricting Trust and Fair Lines America, regarding H. 4493, Predecessor Maps, and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees and third parties, concerning the Map Room regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications concerning the Map Room and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications concerning oral and written testimony, public comments, and other documents submitted before, during, or after any South Carolina legislative hearing, any Committee meetings, and any House or Senate floor review of H. 4493 and Predecessor Maps.

[SIGNATURE ON FOLLOWING PAGE]

Dated: March 16, 2022

Leah C. Aden\*\*  
Stuart Naifeh\*\*  
Raymond Audain\*\*  
John S. Cusick\*\*  
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\* Motion for admission Pro Hac Vice  
forthcoming

\*\* Admitted Pro Hac Vice

Respectfully submitted,

/s/ Christopher J. Bryant  
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Counsel for Plaintiffs the South Carolina  
Conference of the NAACP and Taiwan Scott

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\* Motion for admission *Pro Hac Vice*  
forthcoming

\*\* Admitted *Pro Hac Vice*

*Counsel for Plaintiff the South Carolina  
Conference of the NAACP*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

*/s/ Christopher Bryant*  
Christopher Bryant

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
District of South Carolina

S.C. State Conference of the NAACP, et. al,

Plaintiff

v.

Thomas C. Alexander, et. al.

Defendant

Civil Action No. 3:21-cv-03302-JMC-TJH-RMG

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

To: Neal A. Collins, South Carolina State Representative

(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 attached

Table with 2 columns: Place (Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201) and Date and Time (03/31/2022 12:00 pm)

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.

Table with 2 columns: Place and Date and Time (empty)

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: 03/17/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) South Carolina State Conference of the NAACP, Taiwan Scott, who issues or requests this subpoena, are: Christopher Bryant, tel.: (843) 779-5444, chris@boroughsbryant.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, 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).

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 3:21-cv-03302-JMC-TJH-RMG

**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**

**SUBPOENA FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
NEAL A. COLLINS, SOUTH CAROLINA STATE REPRESENTATIVE**

For a statement of your obligation in producing documents under this subpoena see Rule 45(e), and (g) of the Federal Rules of Civil Procedure (“Rule”), which appear on the final page of the subpoena. Documents should be produced on or before March 30, 2022. To make arrangements for electronic production, contact Christopher Bryant, Boroughs Bryant LLC, 1122 Lady St., Ste. 208, Columbia, SC 29201, tel.: (843) 779-5444, chris@boroughsbryant.com. The production should be made pursuant to the Definitions and Instructions below.

**DEFINITIONS**

As used herein, the following terms have the following meanings:

1. “ALL,” “ANY,” and “EACH” shall each be construed as encompassing any and all.
2. “AND” and “OR” shall be construed either disjunctively or conjunctively, as necessary, to bring within the scope of the Request all responses that might otherwise be construed to be outside of its scope.
3. “CHALLENGED DISTRICTS” means South Carolina House of Representative Districts 7, 8, 9, 11, 41, 43, 51, 54, 55, 57, 59, 60, 63, 67, 70, 72, 73, 74, 75, 76, 77, 78, 79, 90, 91, 93, 101, 105.
4. “COMMITTEES” refers to the 24-member South Carolina House of Representatives Judiciary Committee chaired by Representative Christopher J. Murphy; the 7-member South Carolina House of Representatives Judiciary Redistricting Ad Hoc Committee chaired by Rep. Wallace H. Jordan, Jr.; the 22-member South Carolina Senate Judiciary Committee chaired by Senator Luke A. Rankin; and the 7-member South Carolina Senate Judiciary Redistricting Subcommittee chaired by Senator Rankin.

5. “COMMITTEE MEMBERS” refers to any person involved in the duties of the committees, purports to act on the Committees’ behalf or any person or entity acting or purporting to act on the Committees’ behalf or subject to the Committees’ control or is involved in the redistricting work of the committees related to H. 4493.
6. “COMMUNICATIONS” means the transmittal of information of any kind by and/or through any means, including, but not limited to, emails, email attachments, calendar invitations, PowerPoint presentations, written reports, letters, and the like.
7. “DISTRICTS BORDERING THE CHALLENGED DISTRICTS” mean South Carolina House of Representative Districts that border in whole or in part the Challenged Districts.
8. “DOCUMENT” or “DOCUMENTS” is defined to be synonymous in meaning and the same in scope as the term “document” as used in Rule 34 and the phrase “writings and recordings” as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, emails, electronic mail, public or private posts on Facebook, Instagram, or other social media platforms, public or private electronic messages sent via messaging applications or platforms including but not limited to Facebook Messenger, Signal, Slack, Parler or other such platforms, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases,

electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers, charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, 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, whether used or not; 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 your possession, custody or control or any of your attorneys, employees, agents, or representatives.

a. “DOCUMENT” or “DOCUMENTS” shall include Electronically Stored Information.

“ELECTRONICALLY STORED INFORMATION” means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an “active” file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any “deleted” but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

9. “H. 4493” refers to House Bill 4493 as ratified by the South Carolina General Assembly on December 9, 2021, and signed by the Governor of South Carolina on December 10, 2021, and refers to the bill as a whole and/or to any provision thereof.
10. “MAP ROOM” refers to the virtual and physical room and the process for the development, design, and and/or revisions of proposed and draft state House legislative redistricting maps, H. 4493, and predecessor maps (as defined below) by the South Carolina General Assembly.
11. “PERSON” means any natural person or any legal entity, including, but not limited to, any business or governmental entity or association.
12. “PREDECESSOR MAPS” means any previous South Carolina House of Representative redistricting map in whole or in part that were considered, created, developed, and/or proposed by the South Carolina General Assembly.
13. “RACIALLY POLARIZED” means that there is a consistent relationship between the race of the voter and the way in which the voter votes. It means that “black voters and white voters vote differently.” *Thornburg v. Gingles*, 478 U.S. 30, 53, n.21 (1986).
14. “RELATED TO,” “CONCERNING,” or “INCLUDING” shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.
15. “THIRD PARTIES” refers to but is not limited to persons and entities who are political consultants, Republican and Democrat party officials, South Carolina state officials,

lobbyists, members of the public, and legislative aides not in the employment of Defendants.

16. “VOTERS OF COLOR” means anyone who is Black, Hispanic/Latinx, Asian American, or is a member of any other racial minority group, who is eligible or could be eligible to vote.

### **INSTRUCTIONS**

1. The responsive documents should be produced in the manner prescribed by the Rules and any applicable laws or rules.
2. Under Rule 34(b)(2)(B) & (C), if any part of the Request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified. Any ground not stated will be waived.
3. If, in responding to this request, You encounter any ambiguities when construing a request or definition, set forth in Your response what you find ambiguous and the construction You used in responding.
4. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.
5. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of

your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.

6. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
7. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.
8. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must 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.
9. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document.
10. If any requested document is not or cannot be produced in full, you shall produce it to extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.
11. Each document produced must include all attachments and enclosures.

12. Documents attached to each other shall not be separated.
13. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.
14. In accordance with Rule 34(b), all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.
15. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.
16. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.
17. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part

thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.

18. All documents are to be produced in electronic form. Documents produced electronically should be produced in native format with all metadata intact. 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 load files (e.g., Concordance DAT, CSV, OPT, LOG). Each TIFF document shall be produced with an image load file in standard Opticon (\*.log) format that reflects the parent / child relationship and also includes the beginning Bates number; ending Bates number; beginning Attachment Bates number; ending Attaching Bates number; custodian; date sent (for email messages); date modified (for email and non-email messages) where information is available; author (for email and non-email messages); and subject (for email messages). The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition (“OCR”) text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR’d after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level.
19. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:
  - a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and

- b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.
20. If any document is withheld, in whole or in part, under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, deliberative process privilege, or investigative or law enforcement privilege, your answer should provide the following information in a single log:
  - a. the type of document;
  - b. the date of the document;
  - c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;
  - d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;
  - e. its title and reference, if any;
  - f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;
  - g. the type of privilege asserted;
  - h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and
  - i. the paragraph of this request to which the document relates.
21. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if

propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

22. These document requests cover the period from January 1, 2021 to the present, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even though dated, prepared, generated, or received prior to this period.
23. These document requests are continuing in nature and require further and supplemental production if additional documents are acquired and located following the time of the initial production, to the fullest extent under the Rules and any applicable laws or rules.

### **DOCUMENTS REQUESTED**

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

All documents and communications concerning the districts adopted in H. 4493 and Predecessor Maps, including but not limited to all communications with and documents or data provided to, considered, or relied upon by persons who drew, reviewed, approved, or adopted the determination to draw districts as reflected in H. 4493 and Predecessor Maps.

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

All maps, draft maps, memoranda, reports, analyses, correspondence, or other documents concerning the drawing of the districts adopted in H. 4493 and Predecessor Maps. This request includes, but is not limited to, documents concerning the Racially Polarized voting in the South Carolina electorate, state legislative districts, the role of race in drawing districts, and correspondence between or among You, individuals on any Committee, any map drawers, experts, legislators, members of the South Carolina Legislature, or anyone else concerning the drawing of the districts or any draft maps of the districts considered but not adopted.

**REQUEST FOR PRODUCTION NO. 3:**

All documents and communications sufficient to show any and all criteria used in drawing and approving the district lines, contours, limits, or boundaries included in the districts adopted in H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 4:**

All transcripts, minutes, notes, or other documents concerning any meetings of Committees and any in connection with or in furtherance the adoption of H. 4493 or the Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 5:**

All documents and communications concerning the rationale(s) or purpose(s) behind the Challenged Districts and Districts Bordering the Challenged Districts adopted in H. 4493 and any Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 6:**

All documents and communications concerning statements in support of or opposition to H. 4493 and any Predecessor Maps, including in support of or opposition to any proposed amendments.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications concerning the impact or potential impact of H. 4493 and any Predecessor Maps on voters of color.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications regarding any concerns, complaints, or comments about the procedure and transparency of the Committees' redistricting process used in the considerations and deliberations regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees, and organizations and third parties, including the National Republican Redistricting Trust and Fair Lines America, regarding H. 4493, Predecessor Maps, and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications between You and other individuals, including members of the South Carolina General Assembly and their staff or employees and third parties, concerning the Map Room regarding H. 4493 and all Predecessor Maps.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications concerning the Map Room and redistricting in South Carolina.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications concerning oral and written testimony, public comments, and other documents submitted before, during, or after any South Carolina legislative hearing, any Committee meetings, and any House or Senate floor review of H. 4493 and Predecessor Maps.

[SIGNATURE ON FOLLOWING PAGE]

Dated: March 16, 2022

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\* Motion for admission Pro Hac Vice  
forthcoming

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

*/s/ Christopher Bryant*  
Christopher Bryant