

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

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in
his official capacity as Chair of the House
Standing Committee on Redistricting, et
al.,

Defendants.

Civil Action No. 1:23-cv-01057-TDS-
JLW

**MEMORANDUM IN OPPOSITION TO LEGISLATIVE DEFENDANTS’
MOTION TO CONSOLIDATE**

Consolidation makes sense where it helps streamline litigation, not complicate it. Here, Legislative Defendants ask this Court to consolidate two cases—*Williams v. Hall*, No. 1:23-cv-1057, and *North Carolina State Conference of NAACP v. Berger*, No. 1:23-cv-1104—on the basis that the two “involve common questions of law and fact,” Mem. in Supp. of Legis. Defs.’ Mot. to Consolidate at 4, ECF No. 25 (“Mem.”), and “substantially similar claims,” *id.* at 12. But while both cases involve challenges to North Carolina’s congressional map, the claims vary significantly. *Williams* is a far narrower case than *NC NAACP*: *NC NAACP* involves both constitutional and statutory challenges to congressional, state house, and state senate maps, whereas *Williams* consists of only

constitutional challenges to the congressional map. Specifically, among the 28 discrete challenges alleged in both Complaints, only *one* is overlapping.¹

Rather than promote judicial economy, consolidating these two cases would only add unnecessary expense, delay, and confusion to the litigation. Despite Legislative Defendants’ assertions, there is little to no risk of inconsistent adjudications absent consolidation. Moreover, Legislative Defendants fail to consider that there are more targeted judicial tools available—for instance, coordinating discovery among the parties, as *Williams* and *NC NAACP* Plaintiffs have already offered to facilitate.

This Court should deny Legislative Defendants’ motion to consolidate.

LEGAL STANDARD

Rule 42(a) of the Federal Rules of Civil Procedure provides that “[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.” Fed. R. Civ. P. 42(a). If a motion to consolidate “meet[s] the threshold requirement of involving ‘a common question of law or fact,’ . . . then whether to grant the motion becomes an issue of judicial discretion.” *Pariseau v. Anodyne Healthcare Mgmt., Inc.*, No. 3:04-cv-630, 2006 WL 325379, at *1 (W.D.N.C. Feb. 9, 2006) (citing *Arnold v. E. Air Lines, Inc.*, 681 F.2d 186, 193 (4th Cir.

¹ The single overlapping claim is an Intentional Discrimination Claim against the 2023 Congressional Plan under the Fourteenth and Fifteenth Amendments. *Williams* Compl. at 28, ECF No. 1 (Count II); *NC NAACP* Compl. at 84–85, *N.C. State Conf. of NAACP v. Berger*, No. 1:23-cv-1104 (M.D.N.C. Dec. 19, 2023), ECF No. 1 (Count 12).

1982)). In exercising this discretion, “the court should weigh the risk of prejudice and possible confusion versus the possibility of inconsistent adjudication of common factual and legal issues, the burden on the parties, witnesses, and judicial resources by multiple lawsuits, the length of time required to try multiple suits versus a single suit, and the relative expense required for multiple suits versus a single suit.” *In re Cree, Inc., Sec. Litig.*, 219 F.R.D. 369, 371 (M.D.N.C. 2003) (citing *Arnold*, 681 F.2d at 193). These factors weigh against consolidating *Williams* and *NC NAACP*.

ARGUMENT

I. Consolidation would add unnecessary delay, expense, and complication.

The claims and challenged districts in *Williams* and *NC NAACP* vary significantly. *Williams* is a narrow, targeted case: it challenges only the congressional map, and on constitutional grounds alone. *Williams* Compl. at 26–30 (Counts I and II). In contrast, *NC NAACP* is a far more complex and sprawling action: it challenges three different maps (congressional, state senate, and state house) on both constitutional and statutory grounds. *NC NAACP* Compl. at 73–85 (Counts 1 to 12).

Consolidation would prejudice *Williams* Plaintiffs by adding substantial, unnecessary expense to litigating their claims. *NC NAACP* Plaintiffs’ VRA Section 2 claims, for example, will require the Court to “conduct ‘an intensely local appraisal’” of 10 state legislative districts that the *Williams* Plaintiffs do not challenge. *See Allen v. Milligan*, 599 U.S. 1, 19 (2023) (quoting *Thornburg v. Gingles*, 478 U.S. 30, 79 (1986)). If the two matters are tried together, the *NC NAACP* parties will present a substantial

amount of evidence from fact and expert witnesses that is at best tangential to *Williams* Plaintiffs' claims. Requiring *Williams* Plaintiffs to participate in all aspects of *NC NAACP*'s litigation would be an inefficient use of both the *Williams* Plaintiffs' resources and the Court's resources, while at the same time complicating the litigation for all parties given the different evidentiary issues underlying *Williams* Plaintiffs' and *NC NAACP* Plaintiffs' claims.

Legislative Defendants' concerns about overlapping discovery obligations can easily be addressed short of consolidation. Both the *Williams* Plaintiffs and *NC NAACP* Plaintiffs have expressed their willingness to streamline and coordinate any discovery-related issues that may arise in the two cases, including by ensuring that none of Defendants' witnesses are forced to sit for depositions twice. *See* Decl. of J. Jasrasaria Exs. A, B (emails of counsel for *Williams* Plaintiffs and *NC NAACP* Plaintiffs to Legislative Defendants). Rather than responding to or engaging with this offer from Plaintiffs, Legislative Defendants instead filed the present motion to consolidate.

Even *Singleton v. Merrill*, 582 F. Supp. 3d 924 (N.D. Ala. 2022), which Legislative Defendants regard as a "good, recent example of the benefit that can come from consolidation," Mem. at 12, only partially consolidated the cases at issue. *Singleton* involved three sets of plaintiffs (*Singleton* Plaintiffs, *Milligan* Plaintiffs, and *Caster* Plaintiffs) and only one map (Alabama's congressional map). 582 F. Supp. 3d at 935. Like *Williams* Plaintiffs and *NC NAACP* Plaintiffs here, both the *Singleton* Plaintiffs and *Caster* Plaintiffs "filed documents expressing their concern" about consolidation but "indicated

that they had no objection to consolidating *Singleton* and *Milligan* only for the limited purposes of preliminary injunction discovery and a preliminary injunction hearing.” *Id.* at 941. Meanwhile, “the *Caster* plaintiffs indicated that they had no objection to participating in the preliminary injunction hearing(s) that would occur in *Singleton* and *Milligan* and coordinating discovery with the parties in those cases[.]” *Id.* Consistent with the positions of the parties in those cases, the Court consolidated *Singleton* and *Milligan* “for the limited purposes of preliminary injunction discovery and a preliminary injunction hearing” and “denied the motion to consolidate *Caster*.” *Id.* Contrary to Legislative Defendants’ suggestion, the *Singleton* court did not fully consolidate the cases, but rather granted consolidation only to the extent necessary and consistent with plaintiffs’ agreement.

Notably, all of the redistricting cases cited by Legislative Defendants are readily distinguishable. Consolidation was unopposed by plaintiffs in *Robinson v. Ardoin*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. 2023)² and *Petteway v. Galveston County*, No. 3:22-cv-00057 (S.D. Tex. 2023).³ Likewise, plaintiffs did not oppose consolidation of their identical constitutional challenges in *Georgia State Conference of the NAACP v. Georgia*, No. 1:21-cv-5338-ELB-SCJ-SDG, 2023 WL 7093025 (N.D. Ga. Oct. 26, 2023).⁴ And in *League of United Latin Am. Citizens v. Abbott*, No. EP-21-CV-259-DCG-JES-JVB, 2021

² Order, *Robinson*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Apr. 12, 2022), ECF No. 27.

³ Order, *Petteway*, No. 3:22-cv-00057 (S.D. Tex. June 1, 2022), ECF No. 45.

⁴ Order, *Georgia State Conference of the NAACP*, No. 1:21-cv-5338-ELB-SCJ-SDG, 2023 WL 7093025, ECF No. 40. Although the *Georgia* court ultimately consolidated statutory claims over plaintiffs’ opposition as well, here, even the constitutional challenges at issue are distinct.

WL 5417402, at *1 & n.2 (W.D. Tex. Nov. 19, 2021), only *one of six* plaintiffs opposed consolidation. By contrast, here, *all* plaintiffs in the cases at issue oppose consolidation on all claims.

II. There is little to no risk of inconsistent adjudications absent consolidation.

Legislative Defendants' fear of inconsistent adjudications or relief is overstated. At the outset, by definition, there is only one overlapping claim on which the courts could reach different conclusions. And there too, Plaintiffs' claims in the two cases are complementary, not conflicting. Plaintiffs in both cases allege that the congressional map is unconstitutional because it was passed with discriminatory intent as a motivating factor. *Williams* Compl. at 28 (Count II); *NC NAACP* Compl. at 84 (Count 12). There is no reason to believe that these complementary allegations will produce conflicting rulings.

In any event, courts are well-equipped to manage their dockets to avoid conflicting rulings and judicial inefficiency. For instance, after a single-judge federal district court enjoined use of Georgia's congressional and state legislative maps under Section 2 of the Voting Rights Act, *Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, No. 1:21-CV-05337-SCJ, 2023 WL 7037537, at *2 (N.D. Ga. Oct. 26, 2023), a pending case challenging the same maps before a three-judge court was held in abeyance to conserve judicial resources, *see* Order, *Ga. State Conf. of the NAACP v. Georgia*, No. 1:21-cv-05338-ELB-SCJ-SDG (N.D. Ga. Nov. 1, 2023), ECF No. 204. Here too, communication among the parties and with the Court will lead to the most efficient way to allocate resources in both cases on their way to resolution.

CONCLUSION

For these reasons, Plaintiffs respectfully request that the Court deny Legislative Defendants' motion to consolidate or, in the alternative, grant Legislative Defendants' motion to consolidate only insofar as it pertains to consolidating discovery. *See, e.g., Pariseau*, 2006 WL 325379, at *3 (limiting consolidation "for the purpose of discovery matters and pre-trial matters only").

Dated: February 15, 2024

By: /s/ Abha Khanna

PATTERSON HARKAVY LLP

Burton Craige, NC Bar No. 9180
Narendra K. Ghosh, NC Bar No. 37649
Paul E. Smith, NC Bar No. 45014
100 Europa Dr., Suite 420
Chapel Hill, NC 27517
(919) 942-5200
bcraige@pathlaw.com
nghosh@pathlaw.com
psmith@pathlaw.com

Counsel for Plaintiffs

ELIAS LAW GROUP LLP

Abha Khanna*
1700 Seventh Avenue, Suite 2100
Seattle, Washington 98101
Phone: (206) 656-0177
Facsimile: (206) 656-0180
AKhanna@elias.law

Jyoti Jasrasaria*
Michael B. Jones*
Mark Haidar*
250 Massachusetts Ave., Suite 400
Washington, D.C. 20001
Phone: (202) 968-4490
Facsimile: (202) 968-4498
JJasrasaria@elias.law
MJones@elias.law
MHaidar@elias.law

** Special Appearance pursuant to
Local Rule 83.1(d)*

CERTIFICATE OF WORD COUNT

I certify that this brief complies with the requirements of Local Rule 7.3. This response contains 1,497 words exclusive of the caption, signature lines, and this certificate.

Dated: February 15, 2024

By: /s/ Abha Khanna

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

SHAUNA WILLIAMS, et al.,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in
his official capacity as Chair of the House
Standing Committee on Redistricting, et
al.,

Defendants.

Civil Action No. 1:23-cv-01057-TDS-
JLW

ATTORNEY DECLARATION OF JYOTI JASRASARIA

I, Jyoti Jasrasaria, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am one of the attorneys representing Plaintiffs in the captioned action. I make this declaration on personal knowledge of the facts and circumstances set forth herein.

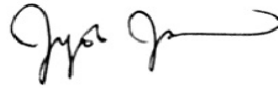
2. On January 24, 2024, I sent an email to Alyssa Riggins, Counsel for Legislative Defendants, in response to her request for Plaintiffs' positions on Legislative Defendants' motion to consolidate. A true and correct copy of my email is attached hereto as **Exhibit A**.

3. On January 24, 2024, Tom Boer, Counsel for *NC NAACP* Plaintiffs, sent an email to Alyssa Riggins, Counsel for Legislative Defendants, in response to her request for Plaintiffs' positions on Legislative Defendants' motion to consolidate.

A true and correct copy of Mr. Boer's email, on which I was copied, is attached hereto as **Exhibit B**.

4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 15th day of February 2024.

A handwritten signature in black ink, appearing to read "Jyoti J.", with a long horizontal flourish extending to the right.

Jyoti Jasrasaria

EXHIBIT A

Jyoti Jasrasaria

From: Jyoti Jasrasaria
Sent: Wednesday, January 24, 2024 5:46 PM
To: Alyssa Riggins; Boer, Tom; Abha Khanna; Steed, Terence; Babb, Mary Carla (Hollis); nghosh@pathlaw.com; Mike Jones; Mark Haidar; Hilary Harris Klein; Gbe, Harmony A.; Chris Shenton; Mitchell D. Brown; Molodanof, Olivia; Leggett, Corey T.; Ellsworth, Jessica L.; jlouard@naacpnet.org; Jeff Loperfido; abarnes@naacpnet.org
Cc: Cassie Holt; Phil Strach; Tom Farr; Alex Bradley; Raile, Richard; Stanley, Trevor M.; McKnight, Katherine L.; rhooper@bakerlaw.com
Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

Counsel,

The *Williams* Plaintiffs oppose the motion to consolidate because our claims and challenged districts are significantly narrower in scope than those of the *NAACP* Plaintiffs; litigating the two cases together would be an inefficient use of our clients' resources and time. However, we are more than willing to work with Defendants to avoid any discovery-related duplication on your end.

Best,
Jyoti

Jyoti Jasrasaria
[Elias Law Group LLP](#)
202-968-4552
(she/her/hers)

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>
Sent: Wednesday, January 24, 2024 4:16 PM
To: Boer, Tom <tom.boer@hoganlovells.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; nghosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrisshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; jlouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org
Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com
Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

Counsel,

We intend to file our motion to consolidate tomorrow afternoon. Please let us know your position on the motion by 1:00 EST tomorrow. If we do not hear from a party by that time, we will represent in the motion that we are unsure as to the party's position.

Best,
Alyssa



ALYSSA RIGGINS **SENIOR ASSOCIATE**
alyssa.riggins@nelsonmullins.com
301 HILLSBOROUGH STREET | SUITE 1400
RALEIGH, NC 27603
T 919.329.3810 F 919.329.3799
NELSONMULLINS.COM [VCARD](#) [VIEW BIO](#)

From: Alyssa Riggins

Sent: Monday, January 22, 2024 11:06 AM

To: Boer, Tom <tom.boer@hoganlovells.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsted@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; nghosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrisshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; jlouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org

Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rRaile@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com

Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

Tom,

Legislative Defendants have identified several reasons these matters should be consolidated, including but not limited to:

- The operative facts giving rise to all claims in both suits are the same;
- The defendants are identical;
- Both suits bring claims under the 14th and 15th Amendments in similar, if not the same, districts and/or areas of the state;
- The claims diverge only in the respect that the *NAACP* plaintiffs challenge some districts under the VRA, but redistricting cases involving both constitutional and VRA claims are routinely consolidated, as was the case in *Allen v. Milligan* and numerous others.

Additionally, with two different panels, evidence, depositions, trials, etc., there is a risk that the panels could reach different conclusions regarding liability in either the same districts, or in the same area of the state. This could leave Defendants in an untenable position of having competing orders on liability. Moreover, it is equally untenable to ask the taxpayers of North Carolina to twice shoulder the burden of fees and costs for two actions arising out of the same facts, with the largely the same witnesses, and largely the same set of claims.

Best,
Alyssa



ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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

From: Boer, Tom <tom.boer@hoganlovells.com>

Sent: Thursday, January 18, 2024 1:31 PM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; nghosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrisshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>;

jlouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org

Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com

Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

Ms. Riggins,

Good afternoon.

Thank you for your outreach on a motion to consolidate. It would assist us in evaluating your motion if you could provide more insight into the basis for consolidation and, in particular, any burdens you have identified if the cases proceed separately.

At the outset, I will note that we do not see the cases as presenting a large degree of overlapping claims and see burdens and complications with trying the two cases together. But we are willing to further consider our position if you provide more particulars about the basis for your motion.

Additionally, if the Defendants' concern is with aspects of discovery scheduling or burden, the *NAACP* parties are prepared to discuss options to address reasonable accommodations for that issue short of consolidation.

Regards,

Tom

Tom Boer

Partner

Hogan Lovells US LLP

4 Embarcadero Center

Suite 3500

San Francisco, CA 94111

Tel: +1 415 374 2300

Direct: +1 415 374 2336
Mobile: +1 510 219 2985
Fax: +1 415 374 2499
Email: tom.boer@hoganlovells.com
www.hoganlovells.com

From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>

Sent: Wednesday, January 17, 2024 12:35 PM

To: Jyoti Jasarasaria <jjasarasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; nghosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrishshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Boer, Tom <tom.boer@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; jilouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org

Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com

Subject: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

[EXTERNAL]

Dear Counsel,

Legislative Defendants intend to file a motion to consolidate the two above referenced matters since the cases involve substantially the same set of facts, claims, and witnesses. Could counsel for each set of plaintiffs and the NCSBE let us know your position on the motion?

Best,
Alyssa Riggins



ALYSSA RIGGINS **SENIOR ASSOCIATE**

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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

Confidentiality Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-237-2000) or reply to this e-mail and delete all copies of this message.

About Hogan Lovells

Hogan Lovells is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP. For more information, see www.hoganlovells.com.

CONFIDENTIALITY. This email and any attachments are confidential, except where the email states it can be disclosed; it may also be privileged. If received in error, please do not disclose the contents to anyone, but notify the sender by return email and delete this email (and any attachments) from your system.

PRIVACY. Hogan Lovells processes personal data, including data relating to email communications, in accordance with the terms of its privacy policy which is available at www.hoganlovells.com/en/privacy.

EXHIBIT B

Jyoti Jasrasaria

From: Boer, Tom <tom.boer@hoganlovells.com>
Sent: Wednesday, January 24, 2024 7:18 PM
To: Alyssa Riggins; Jyoti Jasrasaria; Abha Khanna; Steed, Terence; Babb, Mary Carla (Hollis); nghosh@pathlaw.com; Mike Jones; Mark Haidar; Hilary Harris Klein; Gbe, Harmony A.; Chris Shenton; Mitchell D. Brown; Molodanof, Olivia; Leggett, Corey T.; Ellsworth, Jessica L.; jlouard@naacpnet.org; Jeff Loperfido; abarnes@naacpnet.org
Cc: Cassie Holt; Phil Strach; Tom Farr; Alex Bradley; Raile, Richard; Stanley, Trevor M.; McKnight, Katherine L.; rhooper@bakerlaw.com
Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

Counsel,

Good afternoon.

The *NAACP, et al.*, Plaintiffs oppose the proposed motion to consolidate. Foremost, we do not agree that there are only minimal differences in the nature and scope of the claims. To the contrary, the *NAACP* Plaintiffs have brought different claims under the 14th and 15th Amendments and the scope of our requested remedies is also materially different. Given these differences in the nature of the claims, we also do not agree there is a substantial risk of materially conflicting opinions from the two panels such that consolidation is appropriate or required.

As I raised in response to your first e-mail, to the extent there is some potential for overlap of some discovery (e.g., witnesses that would be deposed in both actions), we are prepared to work with the Defendants, and with the *Williams* Plaintiffs, to reasonably coordinate that discovery. However, it is not unusual for different cases to involve similar witnesses and we do not believe the fact that there may be some overlap in some aspects of the potential discovery necessitates consolidation of the matters.

Regards,
Tom

Tom Boer

Partner

Hogan Lovells US LLP
4 Embarcadero Center
Suite 3500
San Francisco, CA 94111
Tel: +1 415 374 2300
Direct: +1 415 374 2336
Mobile: +1 510 219 2985
Fax: +1 415 374 2499
Email: tom.boer@hoganlovells.com
www.hoganlovells.com

From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>
Sent: Wednesday, January 24, 2024 1:16 PM
To: Boer, Tom <tom.boer@hoganlovells.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>;

ngghosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrisshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; jlouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org

Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com

Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

[EXTERNAL]

Counsel,

We intend to file our motion to consolidate tomorrow afternoon. Please let us know your position on the motion by 1:00 EST tomorrow. If we do not hear from a party by that time, we will represent in the motion that we are unsure as to the party's position.

Best,
Alyssa



ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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

From: Alyssa Riggins

Sent: Monday, January 22, 2024 11:06 AM

To: Boer, Tom <tom.boer@hoganlovells.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; ngghosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrisshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; jlouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org

Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com

Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

Tom,

Legislative Defendants have identified several reasons these matters should be consolidated, including but not limited to:

- The operative facts giving rise to all claims in both suits are the same;

- The defendants are identical;
- Both suits bring claims under the 14th and 15th Amendments in similar, if not the same, districts and/or areas of the state;
- The claims diverge only in the respect that the NAACP plaintiffs challenge some districts under the VRA, but redistricting cases involving both constitutional and VRA claims are routinely consolidated, as was the case in *Allen v. Milligan* and numerous others.

Additionally, with two different panels, evidence, depositions, trials, etc., there is a risk that the panels could reach different conclusions regarding liability in either the same districts, or in the same area of the state. This could leave Defendants in an untenable position of having competing orders on liability. Moreover, it is equally untenable to ask the taxpayers of North Carolina to twice shoulder the burden of fees and costs for two actions arising out of the same facts, with the largely the same witnesses, and largely the same set of claims.

Best,
Alyssa



ALYSSA RIGGINS SENIOR ASSOCIATE

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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

From: Boer, Tom <tom.boer@hoganlovells.com>

Sent: Thursday, January 18, 2024 1:31 PM

To: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>; Jyoti Jasrasaria <jjasrasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; nghosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrisshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; jlouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org

Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rraile@bakerlaw.com>; Stanley, Trevor M. <stanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com

Subject: RE: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

Ms. Riggins,

Good afternoon.

Thank you for your outreach on a motion to consolidate. It would assist us in evaluating your motion if you could provide more insight into the basis for consolidation and, in particular, any burdens you have identified if the cases proceed separately.

At the outset, I will note that we do not see the cases as presenting a large degree of overlapping claims and see burdens and complications with trying the two cases together. But we are willing to further consider our position if you provide more particulars about the basis for your motion.

Additionally, if the Defendants' concern is with aspects of discovery scheduling or burden, the NAACP parties are prepared to discuss options to address reasonable accommodations for that issue short of consolidation.

Regards,
Tom

Tom Boer

Partner

Hogan Lovells US LLP

4 Embarcadero Center

Suite 3500

San Francisco, CA 94111

Tel: +1 415 374 2300

Direct: +1 415 374 2336

Mobile: +1 510 219 2985

Fax: +1 415 374 2499

Email: tom.boer@hoganlovells.com

www.hoganlovells.com

From: Alyssa Riggins <alyssa.riggins@nelsonmullins.com>

Sent: Wednesday, January 17, 2024 12:35 PM

To: Jyoti Jasrasaria <jjasrasaria@elias.law>; Abha Khanna <akhanna@elias.law>; Steed, Terence <Tsteed@ncdoj.gov>; Babb, Mary Carla (Hollis) <MCBabb@ncdoj.gov>; ngosh@pathlaw.com; Mike Jones <mjones@elias.law>; Mark Haidar <mhaidar@elias.law>; Hilary Harris Klein <hilaryhklein@scsj.org>; Gbe, Harmony A. <harmony.gbe@hoganlovells.com>; Chris Shenton <chrishshenton@scsj.org>; Mitchell D. Brown <mitchellbrown@scsj.org>; Boer, Tom <tom.boer@hoganlovells.com>; Molodanof, Olivia <olivia.molodanof@hoganlovells.com>; Leggett, Corey T. <corey.leggett@hoganlovells.com>; Ellsworth, Jessica L. <jessica.ellsworth@hoganlovells.com>; jlouard@naacpnet.org; Jeff Loperfido <jeffloperfido@scsj.org>; abarnes@naacpnet.org

Cc: Cassie Holt <cassie.holt@nelsonmullins.com>; Phil Strach <phil.strach@nelsonmullins.com>; Tom Farr <tom.farr@nelsonmullins.com>; Alex Bradley <alex.bradley@nelsonmullins.com>; Raile, Richard <rRaile@bakerlaw.com>; Stanley, Trevor M. <tstanley@bakerlaw.com>; McKnight, Katherine L. <kmcknight@bakerlaw.com>; rhooper@bakerlaw.com

Subject: Williams v. Hall (1:23-cv-1057); NAACP v. Berger (1:23-cv-01104)

[EXTERNAL]

Dear Counsel,

Legislative Defendants intend to file a motion to consolidate the two above referenced matters since the cases involve substantially the same set of facts, claims, and witnesses. Could counsel for each set of plaintiffs and the NCSBE let us know your position on the motion?

Best,
Alyssa Riggins

ALYSSA RIGGINS **SENIOR ASSOCIATE**

alyssa.riggins@nelsonmullins.com

301 HILLSBOROUGH STREET | SUITE 1400

RALEIGH, NC 27603

T 919.329.3810 F 919.329.3799

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

Confidentiality Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-237-2000) or reply to this e-mail and delete all copies of this message.

About Hogan Lovells

Hogan Lovells is an international legal practice that includes Hogan Lovells US LLP and Hogan Lovells International LLP. For more information, see www.hoganlovells.com.

CONFIDENTIALITY. This email and any attachments are confidential, except where the email states it can be disclosed; it may also be privileged. If received in error, please do not disclose the contents to anyone, but notify the sender by return email and delete this email (and any attachments) from your system.

PRIVACY. Hogan Lovells processes personal data, including data relating to email communications, in accordance with the terms of its privacy policy which is available at www.hoganlovells.com/en/privacy.