

(hereinafter “the Agreement”), in accordance with the terms of the Court’s June 7, 2019, order. The support scores submitted by Plaintiff NCDP represent district-level averages of individuals’ percentage likelihood (on a scale of 0-100) to vote for a democratic candidate for state house or state senate as of October 17, 2018 (the date Early Voting began for the 2018 general election).

After reviewing *in camera* the materials submitted by Plaintiff NCDP, and after further consideration of Legislative Defendants’ motion to compel and the matters contained therein, as well as the parties’ briefs, submissions, and arguments on the motion by those in attendance, and having reviewed the record proper, the Court, in its discretion, rules upon Legislative Defendants’ motion as follows:

Legislative Defendants’ Motion to Compel

As stated in its previous order, the Court recognizes Plaintiff NCDP’s desire to protect the sensitive and proprietary nature of DNC support scores. While the Court finds that support scores are considered proprietary per the terms of the Agreement, it is not evident that these specific summary reports in the submitted format, in light of their heightened relevance to Plaintiff NCDP’s claims, must be shielded from discovery. As the Court has already noted in its June 7, 2019, order, the production of such summary reports in this case would be helpful to meet the needs of the litigation in light of the importance of the issues at stake in the litigation. And the Court is satisfied that producing support scores in the form of

district-level average summary reports, while also marking those summary reports as Highly Confidential under the parties' Consent Protective Order, sufficiently conceals and protects their proprietary value, and disclosure should not compromise Plaintiff NCDP's contractual relationship with the DNC.

The Court finds that the generated summary reports of support scores as submitted are discoverable. Accordingly, the generated summary reports shall be designated by Plaintiff NCDP as "HIGHLY CONFIDENTIAL/ OUTSIDE ATTORNEYS' EYES ONLY" pursuant to the parties' April 5, 2019, Consent Protective Order, and produced to Legislative Defendants. Furthermore, pursuant to Sub-paragraph 12.d. of the parties' Consent Protective Order, the Court will order that the produced summary reports also be made available to parties' testifying experts as contemplated by Sub-paragraph 11.c. of the Consent Protective Order ("... testifying experts retained for the purposes of this litigation who have signed [an affidavit of confidentiality]").

Request for Expenses and Amendment of Case Management Order

Legislative Defendants also request reasonable expenses, pursuant to Rule 37(a) of the North Carolina Rules of Civil Procedure, incurred in obtaining an order compelling Plaintiff NCDP to produce the documents sought in their motion to compel. When a motion to compel discovery "is granted, the court shall, after opportunity for hearing, require the party . . . whose conduct necessitated the motion . . . to pay to the moving party the reasonable expenses incurred in obtaining

the order, including attorney's fees, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust." N.C.G.S. § 1A-1, Rule 37(a)(4). The Court finds that Plaintiff NCDP's opposition to the motion was substantially justified in light of the data sought and the terms of the Agreement. Therefore, in its discretion, the Court declines to award Legislative Defendants expenses incurred in obtaining this order.

Legislative Defendants also request that the Court amend the case management order to allow Legislative Defendants to continue the deposition of the NCDP or any other fact witness as may be necessary as a result of Plaintiff NCDP's delay in producing the responsive documents. Because the delay in production was justified and it appears unlikely that conducting further depositions will be helpful in meeting the needs of litigation, the Court, in its discretion, declines to amend the case management order.

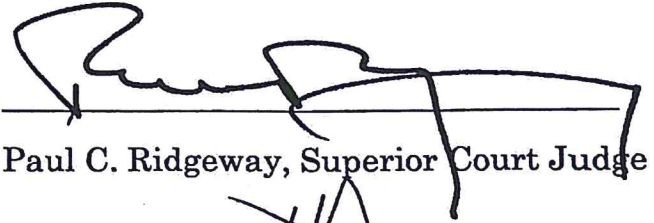
Conclusion

WHEREFORE, the Court, for the reasons stated herein and in the exercise of its discretion, hereby ORDERS as follows:

1. Legislative Defendants' motion to compel is GRANTED in part and DENIED in part.
 - a. Plaintiff NCDP shall produce to Legislative Defendants by 5:00 p.m. on June 24, 2019, the district-level summary reports which were submitted to the Court for *in camera* review on June 12, 2019.
 - b. The summary reports shall be marked "HIGHLY CONFIDENTIAL/ OUTSIDE ATTORNEYS' EYES ONLY" and made available to only those persons authorized to view such designated documents and in accordance with the terms of this order.
 - c. Legislative Defendants' request for attorneys' fees is denied.

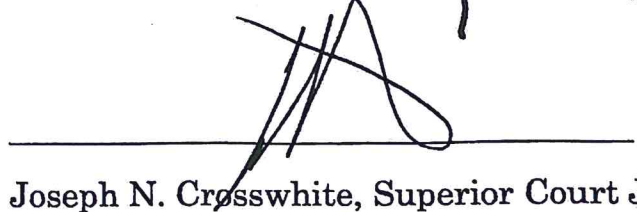
d. Legislative Defendants' request to amend the case management order is denied.

SO ORDERED, this the 21 day of June, 2019.



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Paul C. Ridgeway, Superior Court Judge



A handwritten signature in black ink, appearing to read "Joseph N. Crosswhite", written over a horizontal line.

Joseph N. Crosswhite, Superior Court Judge



A handwritten signature in black ink, appearing to read "Alma L. Hinton", written over a horizontal line.

Alma L. Hinton, Superior Court Judge

Certificate of Service

The undersigned certifies that the foregoing was served upon all parties by electronic mail, addressed as follows:

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This the 21 day of June, 2019.



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