

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
No. 18-CVS-014001

COMMON CAUSE, et al.,

Plaintiffs,

v.

Representative David R. LEWIS, in
his official capacity as Senior Chairman of the
House Select Committee on Redistricting, et
al.,

Defendants.

**LEGISLATIVE DEFENDANTS'
RESPONSE TO PLAINTIFFS'
EMERGENCY MOTION TO COMPEL
LEGISLATIVE DEFENDANTS TO
PRODUCE REVISED CALCULATIONS
OF DR. JEFFREY LEWIS**

On Monday, July 1, 2019, the Parties exchanged witness lists for trial in this matter. On Tuesday, July 2, 2019, this Court directed the Parties to work to streamline their trial presentations so that the trial could conclude within two weeks. On Wednesday, July 3, 2019, Plaintiffs' counsel demanded that Legislative Defendants produce supplemental analyses by their expert, Dr. Jeffrey Lewis, and demanded a response by the morning of July 4, 2019. Counsel to Legislative Defendants responded to Plaintiffs' demand the next business day, in the morning, alerting Plaintiffs' counsel that Legislative Defendants did not intend to produce any supplemental analyses. Importantly, Legislative Defendants noted that Plaintiffs had an opportunity in the scheduling order to object to the existing analyses on any grounds they deemed fit and that an "emergency motion" was not merited. That afternoon, Friday, July 5, 2019, Plaintiffs filed an emergency motion to compel supplemental analyses by Dr. Lewis.

In an effort to prioritize and streamline their trial presentation, as requested by this Court on July 2, Legislative Defendants no longer intend to call Dr. Lewis as an expert witness, and withdraw the exhibits associated with his report, including Table 4 at issue, marked as LDTX272,

LDTX273, LDTX274, LDTX275, LDTX276, and LDTX277. Plaintiffs are not prejudiced by not receiving supplemental analyses from Dr. Lewis, because he will not testify and they will not need to prepare for his cross-examination. Further, Plaintiffs' experts' testimony and analyses purporting to rebut Dr. Lewis' Table 4 are no longer needed because no such Table 4 will be offered into evidence. Further, testimony from Dr. Lisa Handley, Plaintiffs' expert witness offered for the singular purpose to rebut Dr. Lewis' expert opinion, is no longer necessary. In these and other ways, Plaintiffs too are now afforded an opportunity to streamline their own trial presentation.

For these reasons, Plaintiffs' motion to compel is moot and should be denied. Further, Legislative Defendants' opposition to Plaintiffs' Motion to Compel is substantially justified by the effort to streamline the trial presentation and so Plaintiffs' request for fees and costs should be denied. That Plaintiffs rushed to file an "emergency motion" when Legislative Defendants were clear that none was merited and that Plaintiffs had ample opportunity to object to the admissibility of Table 4 is a cost Plaintiffs created.


This 8th day of July, 2019

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Respectfully submitted,

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CERTIFICATE OF SERVICE

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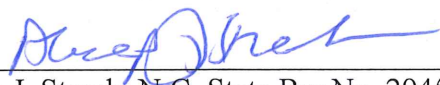
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