

NORTH CAROLINA

WAKE COUNTY

COMMON CAUSE, et al.,

Plaintiffs,

v.

DAVID LEWIS, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIRMAN OF
THE HOUSE SELECT COMMITTEE ON
REDISTRICTING, et al.,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18-CVS-14001

**DEFENDANT-INTERVENORS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' MOTION IN LIMINE
TO EXCLUDE LIVE TESTIMONY
FROM MORE THAN ONE
INTERVENOR-DEFENDANT**

NOW COME Defendant-Intervenors Adrain Arnett, Carolyn Elmore, Cathy Fanslau, Connor Groce, Reginald Reid, Aubrey Woodard, and Ben York ("Intervenors"), and, pursuant to Rule 7 of the North Carolina Rules of Civil Procedure and the Case Management Order, file this Response in Opposition to Plaintiffs' Motion in Limine to Exclude Live Testimony from More Than One Intervenor-Defendant ("Plaintiffs' Motion"). In support of their Response, Intervenors provide the following:

INTRODUCTION

The purpose of Plaintiffs' Motion is not to limit irrelevant or cumulative evidence from Intervenors, but rather to prevent Intervenors from providing district-specific testimony which will refute many of the claims made by the Individual Plaintiffs. Intervenors have already agreed with Plaintiffs to limit testimony to four (4) Intervenors, who will each provide unique, probative testimony on Plaintiffs' claims and Defendants' defenses. As such, Plaintiffs' Motion should be denied, and Intervenors Carolyn Elmore, Connor Groce, Ben York, and Reginald Reid should be permitted to testify at trial.

BACKGROUND

The Court, in its discretion, granted permissive intervention to Intervenors on February 26, 2019.¹ Since that time, Intervenors have participated as parties to this lawsuit, actively involved in fact and expert discovery. In anticipation of the fact discovery deadline, the parties engaged in discussion regarding whether it was necessary to depose all of the individual Plaintiffs and Intervenors. (**Exhibit A**, 4/18/19 Email from E. Theodore to N. Pencoock). Rather than have each and every individual Plaintiff and Intervenor testify at trial, the parties agreed that only five individual Plaintiffs and four Intervenors would testify live at trial. (*Id.*; *see also* **Exhibit B**, Emails between S. Jones, M. McKnight, and J. Branch). The parties agreed to the substance of the affidavits for those parties who would be providing them in lieu of live testimony. (*Id.*; *see also* **Exhibit C**, Emails between E. Theodore, S. Jones, and J. Branch). With the understanding that such individuals may be called to testify live at trial, the parties took the depositions of only five individual Plaintiffs and only four Intervenors prior to the end of fact discovery.

LEGAL STANDARD

“In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by these rules.” N.C. R. Civ. P. 43(a). North Carolina courts have recognized that a party has a right to present oral testimony. *See Murrow v. Murrow*, 87 N.C. App. 174, 175, 359 S.E.2d 811, 812 (1987). “Affidavits, sworn statements or tape recordings are not admissible for substantive purposes at trial absent consent or stipulation of the parties.” G. Gray Wilson, NORTH CAROLINA CIVIL PROCEDURE, § 43-2.

¹ Plaintiffs advanced similar arguments in their opposition to Intervenors’ Motion to Intervene. *See, e.g.*, Pltfs’ Br. in Opp. to Mot. to Intervene at 11 (arguing that granting permissive intervention to Intervenors would “complicate the discovery process and consume additional resources of the court and the parties”). In essence, Plaintiffs’ Motion is a retread of their Opposition to Intervenors’ Motion to Intervene, which this Court has already found unpersuasive.

ARGUMENT

Plaintiffs' Motion seeks to limit the ability of Intervenors to present their case by prematurely depriving the Court of district-specific testimony. Plaintiffs bring this Motion despite the fact that the parties have already agreed which parties will testify via affidavit and which will present live testimony. Contrary to Plaintiffs' belief, Intervenors will provide testimony that is relevant to both Plaintiffs' claims and Intervenors' defenses, and they have a right to testify as such at trial. Plaintiffs' Motion is a transparent attempt to avoid damaging testimony from Intervenors which will expose the circular nature of Plaintiffs' claims. For these reasons, the Court should reject this Motion.

I. Plaintiffs agreed that four Intervenors Elmore, Groce, Reid, and York would testify live at trial.

The North Carolina Rules of Civil Procedure explicitly provides that Intervenors have not just the right, but the duty to testify live at trial, unless there has been an agreement to the contrary. N.C. R. Civ. P. 43(a); Wilson, § 43-2. Knowing this, the parties in fact reached an agreement to provide affidavits in lieu of testimony for all but nine individuals out of the 42 individuals who could have testified live at trial. There has been no other agreement to limit Intervenors' testimony, and on that basis alone, this Court should deny Plaintiffs' Motion as contrary to the North Carolina Rules of Civil Procedure.

II. Intervenors Elmore, Groce, Reid, and York will provide unique, individualized, district-specific testimony that is relevant to the claims and defenses raised in this lawsuit.

Setting aside Intervenors' right under the North Carolina Rules of Civil Procedure to present live testimony, Intervenors' testimony is relevant under Rule 401. Tellingly, Plaintiffs do not seek to prevent *all* Intervenors from testifying—a tacit admission that there is at least some relevance to Intervenors' testimony. Plaintiffs seem to believe that the only

relevant testimony the individual parties may have is related to standing (Plaintiffs' Motion, p.4); however, while Plaintiffs may only have testimony that relates to their standing to bring this lawsuit, Intervenors have more evidence to contribute to the claims and defenses in this matter. Intervenors' testimony will rebut Plaintiffs' conclusory allegations that the maps have had a discriminatory effect on them. Moreover, Intervenors' testimony will rebut Plaintiffs' conclusory allegations that the district lines set by the General Assembly are the only, or predominant, determinant of the outcome of state legislative elections in their respective districts.

The true issue, then, is not whether Intervenors' testimony is irrelevant under Rule 401, but rather whether the probative value is substantially outweighed "by considerations of undue delay, waste of time, or needless presentation of cumulative evidence" under Rule 403. Testimony from Intervenors Elmore, Groce, Reid, and York would not be cumulative because they each will testify about difference circumstances in different legislative districts. The claims and defenses made in this lawsuit require district-by-district analysis; therefore, having testimony from a variety of individuals is relevant and necessary for the Court's inquiry. The Intervenors whom Plaintiffs have agreed could testify at trial are prepared to offer testimony that will explain not just their voting preferences and support for the current legislative districts, but also the effects of the maps on them and their observations on elections under the current plans as active participants in the political process.² (*See, e.g., Exhibit D, C. Groce Dep. at 25:19–28:12, 33:4–35:16* (discussing knowledge of communities

² Indeed, Plaintiffs are aware that Intervenors may have relevant testimony beyond what Plaintiffs identified in their Motion. In the parties' discussions over trial affidavits, Plaintiffs requested that such testimony, which "would be subject to key cross-examination in a deposition and at trial," be excluded from Intervenors' affidavits. (Exhibit C, 5/7/19 Email from S. Jones to J. Branch). Meanwhile, Plaintiffs took the depositions of the remaining four Intervenors precisely because those Intervenors may have district-specific testimony that "would be subject to key cross-examination . . . at trial."

contained within his legislative districts); **Exhibit E**, R. Reid Dep. at 119:23–120:12 (describing why he ran for office as a Republican in districts where Democrats were densely populated)). While it would certainly strategically benefit Plaintiffs to avoid such testimony, the point of this case is not to solely promote their partisan interests; rather, it is to discover the truth. Plaintiffs are not the sole source of relevant facts, and precluding Intervenors' testimony would deprive the Court of crucial facts that would provide context for Plaintiffs' claims.

Plaintiffs' Motion reveals a troubling tactic: Plaintiffs are running roughshod over the facts in their mad dash to a verdict. The parties have cooperated and complied with an expedited trial schedule; now that trial is upon us, there should be an even keener focus on the truth over speed. The relatively limited amount of time needed to have four Intervenors testify instead of one is substantially outweighed by the value that such additional testimony will bring regarding individual districts. Accordingly, this Court should deny Plaintiffs' Motion and permit Intervenor testimony from more than one witness.

III. Intervenors' testimony is necessary to demonstrate the circular nature of Plaintiffs' claims.

Plaintiffs claim that they “do not seek any relief that would result in intentional discrimination against Intervenors.” (Plaintiffs' Motion, p.4). To the contrary, the relief sought by Plaintiffs is to have the Court sanction intentional discrimination against Intervenors, due to their Republican political views, political affiliations, and voting histories, by packing and cracking Republicans in a way that purportedly ensures that more Democrats will be elected to the North Carolina General Assembly. This choice that Plaintiffs are asking the Court to make—a zero-sum decision on drawing legislative district lines solely on the grounds that the district lines favor one political party too much over another political


party—has historically been viewed by the Courts as a political question for this very reason, and Courts have wisely refused to wade into such politically-charged issues. *See, e.g., Rucho v. Common Cause*, No. 18-422, 588 U.S. ____ (2019). Intervenors should be allowed to testify about the harm that they would suffer in the event that Plaintiffs' claims are successful and the relief that they seek are granted.

CONCLUSION

Though Plaintiffs appear bothered by Intervenors' active participation in this lawsuit, Intervenors are parties and have a right to present their key testimony live at trial. This Court should deny Plaintiffs' Motion.

This the 1st day of July 2019.

SHANAHAN LAW GROUP, PLLC

By: 

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Attorneys for Defendant-Intervenors

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing: DEFENDANT-INTERVENORS' RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE TO EXCLUDE LIVE TESTIMONY FROM MORE THAN ONE INTERVENOR-DEFENDANT upon all parties to this matter via email to the below listed email addresses as follows:

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Counsel for Legislative Defendants

This the 1st day of July 2019.

SHANAHAN LAW GROUP, PLLC

By:



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Attorneys for Defendant-Intervenors

Nate Pencook

From: Speas, Edwin M. <ESpeas@poynerspruill.com>
Sent: Monday, April 22, 2019 12:45 PM
To: John Branch
Cc: Jones, Stanton; Nate Pencook; Mackie, Caroline P.; Jacobson, Daniel; Theodore, Elisabeth; Gersch, David P.; AKhanna@perkinscoie.com; melias@perkinscoie.com; ABranch@perkinscoie.com; Strach, Phillip J.; McKnight, Michael D.; Riggins, Alyssa; Majmundar, Amar; Brennan, Stephanie; Cox, Paul
Subject: Re: Common Cause v. Lewis: depositions of intervenors

Thanks, John. We will see you and Ms. Elmore at your office tomorrow as scheduled. Eddie.

Sent from my iPhone

On Apr 22, 2019, at 12:18 PM, John Branch <JBranch@shanahanlawgroup.com> wrote:

Stanton,

At this time, we want to reserve the ability to call the following Intervenor-Defendants as witnesses at trial:

- Connor Groce;
- Reginald Reid;
- Carolyn Elmore; and
- Ben York.

We will obviously make them available for their depositions. We would be interested in offering affidavits in lieu of testimony from the following Intervenor-Defendants:

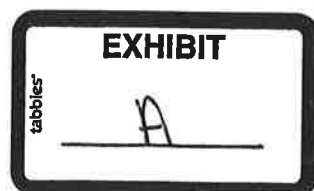
- Cathy Fanslau;
- Aubrey Woodard; and
- Adrian Arnette.

We expect that the affidavits would aver to the Intervenor-Defendants' name, age, address, basic biographical information, districts, preference and reasons for supporting current plans, voting history, participation in the political process, preference for electing Republican legislators, and preference for electing a Republican General Assembly.

Given that we anticipate calling Ms. Elmore (and Mr. Groce, who is scheduled for Friday), we are ready to move forward with her tomorrow, but will reschedule if you so request. I would appreciate it if you would let me know by 2:30 today so that Ms. Elmore will know if she has to travel for the deposition tomorrow. Let's also figure out when we will reschedule it soon – the discovery deadline will come up fast and I don't want us to get jammed up with depositions more than necessary at the end, especially given that we found out that we are losing the entire week of May 6.

Thanks,

John Branch



John E. Branch III | Partner

<image006.png>

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Email: jbranch@shanahanlawgroup.com

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From: Jones, Stanton [<mailto:Stanton.Jones@arnoldporter.com>]

Sent: Monday, April 22, 2019 10:00 AM

To: Nate Pencook <NPencook@shanahanlawgroup.com>; John Branch <JBranch@shanahanlawgroup.com>

Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; AKhanna@perkinscoie.com; melias@perkinscoie.com; ABranch@perkinscoie.com; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>

Subject: RE: Common Cause v. Lewis: depositions of intervenors

John and Nate:

I'm writing to follow up on Elisabeth's email below. Are you interested in discussing a possible arrangement under which certain intervenors would submit limited affidavits at trial in lieu of live testimony, and we accordingly would forego deposing those intervenors? If so, we should discuss promptly. To facilitate such discussions, we would like to postpone the Elmore deposition currently scheduled for tomorrow. Please let us know asap.

Regards,
Stanton

Stanton Jones
Partner

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From: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>
Sent: Thursday, April 18, 2019 8:08 PM
To: Nate Pencook <NPencook@shanahanlawgroup.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Jones, Stanton <Stanton.Jones@arnoldporter.com>
Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; melias@perkinscoie.com; zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>
Subject: RE: Common Cause v. Lewis: depositions of intervenors

Nate,

Related to our email about potentially putting on the testimony of some plaintiffs via affidavit, can you advise us as to your plan for the intervenor-defendants at trial? Do you intend to call all 7? If not, it is possible that we would not need to depose each one. We would be open to discussing a possible arrangement under which most or all of the intervenors, in lieu of testifying live at trial, would instead submit into evidence affidavits with the type of basic information outlined in our proposal to defendants regarding affidavit testimony of most individual plaintiffs. Please let us know if it's worthwhile to discuss this further.

Best,
Elisabeth

Elisabeth S. Theodore
Partner

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From: Nate Pencook <NPencook@shanahanlawgroup.com>
Sent: Thursday, April 18, 2019 10:35 AM
To: Speas, Edwin M. <ESpeas@poynerspruill.com>; Jones, Stanton <Stanton.Jones@arnoldporter.com>
Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; melias@perkinscoie.com; zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>
Subject: RE: Common Cause v. Lewis: depositions of intervenors

Eddie, we're looking for a May date for Fanslau, so it will need to be the week of May 13 if the week of May 6 doesn't work. We were also looking at dates that week for Adrain Arnett, so we will start looking at dates the following week instead.

Nate Pencook | Associate

<image007.png>

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From: Speas, Edwin M. [<mailto:ESpeas@poynerspruill.com>]
Sent: Wednesday, April 17, 2019 4:09 PM
To: Nate Pencook <NPencook@shanahanlawgroup.com>; Jones, Stanton <Stanton.Jones@arnoldporter.com>
Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; AKhanna@perkinscoie.com; melias@perkinscoie.com; ABranch@perkinscoie.com; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>
Subject: RE: Common Cause v. Lewis: depositions of intervenors

Nate, what about week of April 29 for Fanslau. Week of May 6 is not good. Thanks, Eddie

From: Nate Pencook <NPencook@shanahanlawgroup.com>
Sent: Wednesday, April 17, 2019 3:52 PM
To: Jones, Stanton <Stanton.Jones@arnoldporter.com>
Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; AKhanna@perkinscoie.com; melias@perkinscoie.com; ABranch@perkinscoie.com; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Riggins,

Alyssa <Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>
Subject: RE: Common Cause v. Lewis: depositions of intervenors

Stanton,

Following up on John's voicemail from yesterday, we need to move Cathy Fanslau's deposition from Tuesday, April 23 to another date in May. We are working on pinning down another date with her, but wanted to know if there was any date the week of May 6 that would not work for you.

Thanks,

Nate Pencook | Associate

<image007.png>

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From: Jones, Stanton [<mailto:Stanton.Jones@arnoldporter.com>]

Sent: Monday, April 15, 2019 2:51 PM

To: Nate Pencook <NPencook@shanahanlawgroup.com>

Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; AKhanna@perkinscoie.com; melias@perkinscoie.com; ABranch@perkinscoie.com; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>

Subject: RE: Common Cause v. Lewis: depositions of intervenors

Got it, thanks. Let us know when you have a proposed date and specific location for Arnett.

Stanton Jones

Partner

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From: Nate Pencook <NPencook@shanahanlawgroup.com>

Sent: Monday, April 15, 2019 2:43 PM

To: Jones, Stanton <Stanton.Jones@arnoldporter.com>

Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; melias@perkinscoie.com; zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>

Subject: RE: Common Cause v. Lewis: depositions of intervenors

Stanton,

Those times work for us except for Fanslau, who will need to start at 1:30.

Adrain Arnett may need to be deposed in his home county – Duplin County. Also, April 30 will not work for him. We are vetting dates with him for the first full week of May, and are looking at May 8. We'll let you know when we have further details.

Thanks,

Nate Pencook | Associate

<image007.png>

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From: Jones, Stanton [<mailto:Stanton.Jones@arnoldporter.com>]
Sent: Monday, April 15, 2019 2:29 PM
To: Nate Pencook <NPencook@shanahanlawgroup.com>
Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; AKhanna@perkinscoie.com; melias@perkinscoie.com; ABranch@perkinscoie.com; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedekins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedekins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>
Subject: RE: Common Cause v. Lewis: depositions of intervenors

Thanks Nate. Those dates work for us, and we will come to your North Raleigh office.

On April 23, we'd like to start Elmore at 10:30am, and Fanslau at 1pm. On April 26, we'd like to start Groce at 2pm. Please confirm those times work.

Also which intervenor may need to be deposed in his home county?

Regards,
Stanton

Stanton Jones
Partner

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.5563
Stanton.Jones@arnoldporter.com | www.arnoldporter.com

From: Nate Pencook <NPencook@shanahanlawgroup.com>
Sent: Monday, April 15, 2019 12:58 PM
To: Jones, Stanton <Stanton.Jones@arnoldporter.com>
Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; melias@perkinscoie.com; zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedekins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedekins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>
Subject: RE: Common Cause v. Lewis: depositions of intervenors

Stanton,

These are the dates we've been able to work out with our clients:

- April 23: Carolyn Elmore (morning); Cathy Fanslau (afternoon)
- April 26: Connor Groce (afternoon)
- April 30: Adrain Arnett; Reggie Reid

- May 2: Aubrey Woodard; Ben York

We are still waiting on a couple of folks to confirm these dates, but we at least wanted to get these over for your consideration. Most of these will be able to be held in Raleigh, although at least one of our clients may need to be deposed in his home county. We'd like to host these depositions at our North Raleigh office, located at 7501 Falls of Neuse Road, Suite 200, Raleigh, NC 27615. If any of these dates look like they will be difficult for you all, please let us know.

Thanks,

Nate Pencook | Associate

<image007.png>

128 E. Hargett Street | Suite 300
Raleigh, NC 27601

Phone: (919) 856-9494

Email: npencook@shanahanlawgroup.com

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From: Jones, Stanton [<mailto:Stanton.Jones@arnoldporter.com>]

Sent: Sunday, April 14, 2019 10:54 PM

To: Nate Pencook <NPencook@shanahanlawgroup.com>

Cc: Mackie, Caroline P. <CMackie@poynerspruill.com>; John Branch <JBranch@shanahanlawgroup.com>; Speas, Edwin M. <ESpeas@poynerspruill.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Gersch, David P. <David.Gersch@arnoldporter.com>; AKhanna@perkinscoie.com; melias@perkinscoie.com; ABranch@perkinscoie.com; Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D. <Michael.McKnight@ogletreedekins.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedekins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>; Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>

Subject: Re: Common Cause v. Lewis: depositions of intervenors

Nate, please let us know tomorrow (Monday) where things stand with logistics for the intervenors' depositions. Some of us will need to book travel so we need to pin them down this week. Thanks.

Stanton

Sent from my iPhone

On Apr 8, 2019, at 4:56 PM, Nate Pencook <NPencook@shanahanlawgroup.com> wrote:

Caroline,

Thanks for getting these to us, and for your willingness to work with us on dates and locations. We are in the process of coordinating schedules with our clients to determine when they are available for depositions. We anticipate that the dates, times, and locations in your notices may not work, but we will let you know as soon as we can.

Thanks,

Nate Pencook | Associate

<image007.png>

128 E. Hargett Street | Suite 300
Raleigh, NC 27601

Phone: (919) 856-9494

Email: npencook@shanahanlawgroup.com

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From: Mackie, Caroline P. [<mailto:CMackie@poynerspruill.com>]

Sent: Thursday, April 04, 2019 10:47 AM

To: John Branch <JBranch@shanahanlawgroup.com>; Nate Pencook <NPencook@shanahanlawgroup.com>

Cc: Speas, Edwin M. <ESpeas@poynerspruill.com>; Jones, Stanton

<Stanton.Jones@arnoldporter.com>; Theodore, Elisabeth

<Elisabeth.Theodore@arnoldporter.com>; Jacobson, Daniel

<Daniel.Jacobson@arnoldporter.com>; Gersch, David P.

<David.Gersch@arnoldporter.com>; AKhanna@perkinscoie.com;

melias@perkinscoie.com; Branch, Aria C. (Perkins Coie) <ABranch@perkinscoie.com>;

Strach, Phillip J. <phil.strach@ogletree.com>; McKnight, Michael D.

<Michael.McKnight@ogletreedeakins.com>; Riggins, Alyssa

<Alyssa.Riggins@ogletreedeakins.com>; Majmundar, Amar <amajmundar@ncdoj.gov>;

Brennan, Stephanie <Sbrennan@ncdoj.gov>; Cox, Paul <pcox@ncdoj.gov>

Subject: Common Cause v. Lewis: depositions of intervenors

John and Nate,

Attached please find Plaintiffs' deposition notices for the intervenors for April 23-26 at our office in Raleigh. We are of course willing to work with you and your clients' schedules on dates and locations but wanted to send these out to get the ball rolling.

If you could please let me know if these dates and locations work, we would appreciate it.

Thanks,
Caroline

Caroline P. Mackie | Partner

<image008.jpg>

301 Fayetteville Street, Suite 1900, Raleigh, NC 27601

PO Box 1801, Raleigh NC 27602-1801

D: 919 783 1108 | M: 919 909-8036

cmackie@poynerspruill.com | www.poynerspruill.com

<image009.png> <image010.png> <image005.png> <image011.png>

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From: [John Branch](#)
To: [Jones, Stanton](#); [McKnight, Michael D.](#)
Cc: [Jacobson, Daniel](#); [Theodore, Elisabeth](#); [Christine McCaffrey](#); [Strach, Phillip J.](#); rraile@bakerlaw.com; [Nate Pencook](#); [Riggins, Alyssa](#); amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; tstanley@bakerlaw.com; mbraden@bakerlaw.com; [Erwin, Brodie D.](#); ABranch@perkinscoie.com; cmackie@poynerspruill.com; [Gersch, David P.](#); espeas@poynerspruill.com; melias@perkinscoie.com; AKhanna@perkinscoie.com; [Konkel, Kaitlin](#); [Robinson, John](#)
Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-OGL.026753.000016]
Date: Tuesday, May 07, 2019 5:01:30 PM
Attachments: [image001.png](#)

Stanton,

Intervenor-Defendants agree on the same terms as Legislative Defendants.

Best regards,

John Branch

John E. Branch III | Partner



SHANAHAN LAW GROUP, PLLC

128 E. Hargett Street | Suite 300
Raleigh, NC 27601

Phone: (919) 856-9494

Email: jbranch@shanahanlawgroup.com

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From: Jones, Stanton [mailto:Stanton.Jones@arnoldporter.com]

Sent: Tuesday, May 7, 2019 4:32 PM

To: McKnight, Michael D. <michael.mcknight@ogletree.com>

Cc: Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com;

EXHIBIT

tabbles

B

mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedeakins.com>;
ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P.
<David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; melias@perkinscoie.com;
AKhanna@perkinscoie.com; Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; Robinson, John
<John.Robinson@arnoldporter.com>

Subject: Re: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-
OGL.026753.000016]

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Thanks Michael. We're agreed. The State Defendants have already agreed. Can the Intervenor Defendants please confirm their agreement now, so we can have this wrapped up? Thanks.

Stanton

Sent from my iPhone

On May 7, 2019, at 4:26 PM, McKnight, Michael D. <michael.mcknight@ogletree.com> wrote:

External E-mail

Stanton,

Legislative Defendants consent to your submitting affidavits limited to the information contained in the "sample draft affidavit" attached to Ms. Theodore's April 24 email in lieu of providing live testimony from the individual plaintiffs at trial. This agreement is contingent on Legislative Defendants' understanding that you will not call any of the individual plaintiffs, other than the five whose depositions have been noticed in this matter, to testify live at trial in this matter whether in Plaintiffs' case-in-chief or on rebuttal.

Thanks,

Michael D. McKnight | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100 | Raleigh, NC 27609 | Telephone: 919-789-3159 | Fax:
919-783-9412
michael.mcknight@ogletree.com | www.ogletree.com | [Bio](#)

From: Jones, Stanton <Stanton.Jones@arnoldporter.com>

Sent: Monday, May 06, 2019 12:07 PM

To: McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook

<NPencook@shanahanlawgroup.com>; Riggins, Alyssa
<Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov;
sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>;
tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D.
<brodie.erwin@ogletreedeakins.com>
Cc: ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P.
<David.Gersch@arnoldporter.com>; espeas@poynerspruill.com;
melias@perkinscoie.com; AKhanna@perkinscoie.com; Konkel, Kaitlin
<Kaitlin.Konkel@arnoldporter.com>; Robinson, John
<John.Robinson@arnoldporter.com>
Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-
OGL.026753.000016]

Thank you Michael. Please let us know by tomorrow whether Legislative Defendants and/or Intervenor Defendants consent to the short affidavits we have proposed (our sample is attached again here for convenience) from the individual Plaintiffs other than the five who are already set to be deposed.

Also, counsel for Intervenors, we still have not received the proposed affidavit you would submit in lieu of deposition or live testimony from the Intervenors other than those already set to be deposed. Please send it without further delay.

Regards,
Stanton

From: McKnight, Michael D. <michael.mcknight@ogletree.com>
Sent: Friday, May 3, 2019 2:38 PM
To: Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Theodore, Elisabeth
<Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey
<CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J.
<Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook
<NPencook@shanahanlawgroup.com>; Riggins, Alyssa
<Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov;
sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>;
tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D.
<brodie.erwin@ogletreedeakins.com>
Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>;
zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>;
cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>;
espeas@poynerspruill.com; melias@perkinscoie.com;
zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; Konkel, Kaitlin
<Kaitlin.Konkel@arnoldporter.com>; Robinson, John
<John.Robinson@arnoldporter.com>
Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-
OGL.026753.000016]

External E-mail

We will confer and get back to you on the affidavit issue by early next week.

Michael D. McKnight | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100 | Raleigh, NC 27609 | Telephone: 919-789-3159 | Fax:
919-783-9412
michael.mcknight@ogletree.com | www.ogletree.com | [Bio](#)

From: Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>
Sent: Friday, May 03, 2019 2:34 PM
To: McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedeakins.com>
Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>; ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; melias@perkinscoie.com; AKhanna@perkinscoie.com; Konkell, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; Robinson, John <John.Robinson@arnoldporter.com>
Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-OGL.026753.000016]

Thanks Michael. Can both you and Intervenor Defendants let us know as soon as possible whether you consent to have all of the other individual plaintiffs submit affidavits in lieu of live testimony? Intervenor Defendants, can you also send us as soon as possible your proposed affidavits for the intervenors who are not currently scheduled for depositions?

Best,
Dan

Daniel Jacobson
Senior Associate

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.5602

Daniel.Jacobson@arnoldporter.com | www.arnoldporter.com

From: McKnight, Michael D. <michael.mcknight@ogletree.com>

Sent: Friday, May 3, 2019 2:30 PM

To: Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedeakins.com>

Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>; zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; melias@perkinscoie.com; zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; Robinson, John <John.Robinson@arnoldporter.com>

Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-OGL.026753.000016]

External E-mail

Let's schedule Ms. Quick for 9:30 a.m. on Thursday, May 16.

Thanks,

Michael D. McKnight | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100 | Raleigh, NC 27609 | Telephone: 919-789-3159 | Fax: 919-783-9412
michael.mcknight@ogletree.com | www.ogletree.com | [Bio](#)

From: Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>

Sent: Wednesday, May 01, 2019 5:51 PM

To: McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedeakins.com>

Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>; ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; melias@perkinscoie.com; AKhanna@perkinscoie.com; Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; Robinson, John

<John.Robinson@arnoldporter.com>

Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-
OGL.026753.000016]

Michael,

Ms. Quick is available on May 15th or 16th. Please let us know which date you prefer.

Assuming you (and other defendants) do not depose any individual plaintiff other than these five and assuming that you and all parties agree that we may submit affidavits in lieu of live testimony along the lines of the sample affidavit we provided, then yes, your understanding is correct that these five plaintiffs are the only individual voter plaintiffs who we will consider calling at trial. For the other 32 individual voter plaintiffs, we will only submit affidavits with the information provided in the sample we gave you. Of course, this does not apply to the organizational plaintiffs.

Best,
Dan

Daniel Jacobson
Senior Associate

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.5602

Daniel.Jacobson@arnoldporter.com | www.arnoldporter.com

From: McKnight, Michael D. <michael.mcknight@ogletree.com>

Sent: Wednesday, May 1, 2019 5:18 PM

To: Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedeakins.com>

Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>; zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; melias@perkinscoie.com; zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; Robinson, John <John.Robinson@arnoldporter.com>

Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-

OGI.026753.000016]

External E-mail

Dan,

Based on the availability of the four plaintiffs you provided, we propose the following schedule:

Leon Schaller – Thursday, May 9 @ 1:30 p.m.
Rebecca Johnson – Friday, May 10 @ 9:30 a.m.
Joshua Perry Brown – Friday, May 10 @ 1:30 p.m.
Derrick Miller – Monday, May 13 @ 9:30 a.m.

I understand that these dates and times also work for counsel for the Intervenor-Defendants. Please let us know Ms. Quick's availability when you have it and we will aim to get that one set and noticed.

With respect to the other plaintiffs and the affidavits, I want to make sure the we understand your email: Are the five plaintiffs identified above all of the plaintiffs who you may call to testify at trial (either in your case or in any rebuttal case)? Is it correct that you intend to submit affidavits for the remaining 30 plaintiffs in the case containing only the information in the draft affidavit that plaintiffs have proposed?

Thanks,

Michael

Michael D. McKnight | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100 | Raleigh, NC 27609 | Telephone: 919-789-3159 | Fax:
919-783-9412
michael.mcknight@ogletree.com | www.ogletree.com | [Bio](#)

From: Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>

Sent: Tuesday, April 30, 2019 9:59 AM

To: McKnight, Michael D. <Michael.McKnight@ogletreedekins.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedekins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedekins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedekins.com>

Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>; ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>;

espeas@poynerspruill.com; melias@perkinscoie.com; AKhanna@perkinscoie.com;
Konkel, Kaitlin <Kaitlin.Konkel@arnoldporter.com>; Robinson, John
<John.Robinson@arnoldporter.com>

Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-
OGL.026753.000016]

Michael, thank you for providing the list of individual plaintiffs who you are potentially interested in deposing. Below are the plaintiffs who we would potentially call to testify live at trial (we very likely will not call all of these plaintiffs, but these are the ones who we may call), as well as their availability for depositions:

Rebecca Johnson (5/8, 5/9, 5/10, 5/16, 5/17)
Lily Nicole Quick (still confirming dates)
Joshua Perry Brown (5/8, 5/10, 5/14, 5/15, 5/17)
Derrick Miller (5/13, 5/15)
Leon Schaller (5/9, 5/10, 5/12, 5/13, 5/14, 5/16, 5/17)

Where possible, we would like to pair two depositions on the same day, or at least have them on consecutive days. We'll arrange to take all of these depositions at Poyner Spruill's office in Raleigh.

Please also let us know whether you consent to having all other individual plaintiffs submit affidavits at trial along the lines of the draft affidavit that we proposed. Intervenor Defendants and State Defendants, please also let us know whether you consent to this. Finally, Intervenor Defendants, we are still waiting for the draft affidavit you intended to send for those intervenors who would submit one rather than being deposed. Please send that as soon as you can.

Best,
Dan

Daniel Jacobson
Senior Associate

Arnold & Porter
601 Massachusetts Ave., NW
Washington | District of Columbia 20001-3743
T: +1 202.942.5602

Daniel.Jacobson@arnoldporter.com | www.arnoldporter.com

From: McKnight, Michael D. <michael.mcknight@ogletree.com>

Sent: Tuesday, April 23, 2019 5:35 PM

To: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov;

sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>;
tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D.
<brodie.erwin@ogletreedeakins.com>

Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>;
zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>;
cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>;
espeas@poynerspruill.com; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>;
melias@perkinscoie.com; zzz.External.AKhanna@perkinscoie.com
<AKhanna@perkinscoie.com>

Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-
OGL.026753.000016]

External E-mail

Elisabeth,

We have worked with counsel for intervenors to come up with the following joint list of 12 individual plaintiffs the defendants and intervenors intend to notice for depositions:

Dwight Jordan
Joseph Gates
Leon Schaller
Rebecca Johnson
Kathleen Barnes
Ann McCracken
Stephen McGrigor
Nancy Bradley
Vinod Thomas
Derrick Miller
Lily Quick
Joshua Brown

We may have a couple of others to add to the list above but wanted to go ahead and send these names so that you all could be identifying dates between May 2 and May 17 on which these plaintiffs could be deposed as so that deposition notices can be issued as soon as possible. We believe we can schedule up to 2 per day with tentative starting times of 9:30 a.m. and 1:30 p.m.

If you can provide the draft affidavit mentioned below and identify those plaintiffs for whom you intend to offer such an affidavit, we may be able to narrow the list further.

Thank you,

Michael D. McKnight | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100 | Raleigh, NC 27609 | Telephone: 919-789-3159 | Fax:
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From: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>
Sent: Friday, April 19, 2019 4:54 PM
To: McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com; mbraden@bakerlaw.com
Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>; ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; melias@perkinscoie.com; AKhanna@perkinscoie.com
Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-OGL.026753.000016]

Michael:

We'll get back to you with some potential deposition dates for the organizational plaintiffs, and we will also send you a draft of the sort of affidavit that we have in mind for the individual plaintiffs.

As for a meet-and-confer on the NCDP production, we can be available on Monday afternoon after 2pm or generally on Wednesday before 4pm; could you propose some potential times? Can you also please provide a list of topics you intend to discuss so that we can be prepared?

Best,
Elisabeth

Elisabeth S. Theodore
Partner

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Washington | District of Columbia 20001-3743
T: +1 202.942.5891
Elisabeth.Theodore@arnoldporter.com | www.arnoldporter.com

From: McKnight, Michael D. <michael.mcknight@ogletree.com>
Sent: Thursday, April 18, 2019 1:07 PM
To: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook

<NPencook@shanahanlawgroup.com>; Riggins, Alyssa
<Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov;
sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>;
tstanley@bakerlaw.com; mbraden@bakerlaw.com
Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>;
zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>;
cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>;
espeas@poynerspruill.com; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>;
melias@perkinscoie.com; zzz.External.AKhanna@perkinscoie.com
<AKhanna@perkinscoie.com>

Subject: RE: Common Cause v. Lewis - testimony of individual plaintiffs [ODNSS-
OGL.026753.000016]

Elisabeth,

The Legislative Defendants intend to depose both of the organizational plaintiffs and some, but not all, of the individual plaintiffs. At this point, due to the rolling productions by the plaintiffs and the fact that we have not been able to review all of the documents from all of the plaintiffs, it has been difficult for us to determine who among the individual plaintiffs we need to depose. Since you have now represented that all responsive documents have been produced, we will work with the Intervenor-Defendants to identify the specific individual plaintiffs we'd like to depose and provide you with a single list as soon as possible next week.

If you all have some tentative dates in early May on which the organizational plaintiffs can be available for depositions, we will go ahead and issue 30(b)(6) notices for those organizations. Although we are still reviewing the latest round of documents produced by them, it appears we will likely need to schedule a meet-and-confer early next if possible with respect to the NCDP's production. Please let us know your availability for that.

Finally, with respect to your proposal regarding the presentation of trial testimony by some of the individual plaintiffs via affidavit rather than live testimony, the Legislative Defendants would be open to considering such an approach. It would be helpful to see a draft affidavit so that we can make sure we fully understand the testimony you intend to offer with respect to those individuals. Additionally, the Legislative Defendants may be able to narrow the list of individual plaintiffs who they intend to depose if you could identify those individual plaintiffs whose trial testimony will be limited to only those topics described in your email below.

Thanks,

Michael

Michael D. McKnight | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100 | Raleigh, NC 27609 | Telephone: 919-789-3159 | Fax:
919-783-9412

michael.mcknight@ogletree.com | www.ogletree.com | Bio

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

Sent: Tuesday, April 16, 2019 1:55 PM

To: Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rtraile@bakerlaw.com; McKnight, Michael D. <Michael.McKnight@ogletreedeakins.com>; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; John Branch <JBranch@shanahanlawgroup.com>; tstanley@bakerlaw.com; mbraden@bakerlaw.com

Cc: Jones, Stanton <Stanton.Jones@arnoldporter.com>; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; melias@perkinscoie.com; AKhanna@perkinscoie.com

Subject: Common Cause v. Lewis - testimony of individual plaintiffs

Phil, John, and Paul:

Looking ahead to the deadline for fact discovery, do Legislative Defendants, Intervenor Defendants, or State Defendants intend to notice the depositions of all 37 individual plaintiffs? If you do, given the complex scheduling issues that will arise, we think it would be in everyone's interest to begin as early as possible to get those depositions on the calendar, even if the plaintiffs are not actually deposed until May.

Relatedly, however, we wanted to reach out in advance to see if the parties could come to an agreement that might obviate the need to depose all the individual plaintiffs, which would be very expensive and time-consuming for all sides. We doubt that the Court will want us to put on live testimony from all 37 individual plaintiffs at trial; as you know, in prior North Carolina gerrymandering trials, not every plaintiff has testified; and we think live testimony from all 37 would waste the parties' and the court's time and cause substantial and unnecessary expense.

Would you be amenable to an agreement permitting us to introduce testimony from the individual plaintiffs through affidavits (or stipulations), rather than live? The affidavits would aver to the plaintiff's name, age, address, basic biographical information, districts, voting history, and preference for electing Democratic legislators and a Democratic General Assembly. We would then call a few plaintiffs live at trial, but not all 37.

Please let us know whether you would consent to such a proposal. We would be happy to discuss this further at a meet and confer.

Best,

Elisabeth

Elisabeth S. Theodore

Partner

Arnold & Porter

601 Massachusetts Ave., NW

Washington | District of Columbia 20001-3743

T: +1 202.942.5891

Elisabeth.Theodore@arnoldporter.com | www.arnoldporter.com

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From: [Theodore, Elisabeth](#)
To: [John Branch](#); [Jones, Stanton](#)
Cc: [McKnight, Michael D.](#); [Christine McCaffrey](#); [Strach, Phillip J.](#); [rraile@bakerlaw.com](#); [Nate Pencook](#); [Riggins, Alyssa](#); [amajmundar@ncdoj.gov](#); [pcox@ncdoj.gov](#); [sbrennan@ncdoj.gov](#); [tstanley@bakerlaw.com](#); [mbraden@bakerlaw.com](#); [Erwin, Brodie D.](#); [ABranch@perkinscoie.com](#); [cmackie@poynerspruill.com](#); [Gersch, David P.](#); [espeas@poynerspruill.com](#); [Jacobson, Daniel](#); [melias@perkinscoie.com](#); [AKhanna@perkinscoie.com](#)
Subject: RE: Common Cause v. Lewis - Draft Affidavit of Non-Testifying Intervenor
Date: Thursday, May 30, 2019 4:11:30 PM
Attachments: [image001.png](#)

CAUTION: External Email

Thanks, John.

From: John Branch <JBranch@shanahanlawgroup.com>
Sent: Thursday, May 30, 2019 3:08 PM
To: Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Jones, Stanton <Stanton.Jones@arnoldporter.com>
Cc: McKnight, Michael D. <michael.mcknight@ogletree.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedeakins.com>; zzz.External.ABranch@perkinscoie.com <ABranch@perkinscoie.com>; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; melias@perkinscoie.com; zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>
Subject: RE: Common Cause v. Lewis - Draft Affidavit of Non-Testifying Intervenor

External E-mail

Elisabeth,

This will confirm that Defendants-Intervenor will agree to remove paragraph 7 of the affidavits.

Thanks,

John Branch

John E. Branch III | Partner



128 E. Hargett Street | Suite 300



Raleigh, NC 27601

Phone: (919) 856-9494

Email: jbranch@shanahanlawgroup.com

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From: Theodore, Elisabeth [<mailto:Elisabeth.Theodore@arnoldporter.com>]

Sent: Friday, May 24, 2019 10:48 AM

To: Jones, Stanton <Stanton.Jones@arnoldporter.com>; John Branch <JBranch@shanahanlawgroup.com>

Cc: McKnight, Michael D. <michael.mcknight@ogletree.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa <Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov; sbrennan@ncdoj.gov; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D. <brodie.erwin@ogletreedeakins.com>; ABranch@perkinscoie.com; cmackie@poynerspruill.com; Gersch, David P. <David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; Jacobson, Daniel <Daniel.Jacobson@arnoldporter.com>; melias@perkinscoie.com; AKhanna@perkinscoie.com

Subject: RE: Common Cause v. Lewis - Draft Affidavit of Non-Testifying Intervenors

CAUTION: External Email

John,

Can you please confirm that intervenors will remove paragraph 7 in your proposed declarations for the non-testifying intervenors? As Stanton mentioned, plaintiffs can agree to the form of declaration you have proposed if paragraph 7 is removed.

Thanks,
Elisabeth

From: Jones, Stanton <Stanton.Jones@arnoldporter.com>

Sent: Tuesday, May 7, 2019 9:31 AM

To: John Branch <JBranch@shanahanlawgroup.com>

Cc: McKnight, Michael D. <michael.mcknight@ogletree.com>; Christine McCaffrey <CMcCaffrey@shanahanlawgroup.com>; Strach, Phillip J. <Phil.Strach@ogletreedeakins.com>; rraile@bakerlaw.com; Nate Pencook <NPencook@shanahanlawgroup.com>; Riggins, Alyssa

<Alyssa.Riggins@ogletreedeakins.com>; amajmundar@ncdoj.gov; pcox@ncdoj.gov;
sbrennan@ncdoj.gov; tstanley@bakerlaw.com; mbraden@bakerlaw.com; Erwin, Brodie D.
<brodie.erwin@ogletreedeakins.com>; zzz.External.ABranch@perkinscoie.com
<ABranch@perkinscoie.com>; cmackie@poynerspruill.com; Gersch, David P.
<David.Gersch@arnoldporter.com>; espeas@poynerspruill.com; Jacobson, Daniel
<Daniel.Jacobson@arnoldporter.com>; melias@perkinscoie.com;
zzz.External.AKhanna@perkinscoie.com <AKhanna@perkinscoie.com>; Theodore, Elisabeth
<Elisabeth.Theodore@arnoldporter.com>

Subject: Re: Common Cause v. Lewis - Draft Affidavit of Non-Testifying Intervenors

Thanks John. This proposed affidavit is generally acceptable to Plaintiffs, with the one exception of paragraph 7. That paragraph expresses the person's subjective view about a particular feature of the challenged plans/districts, which is precisely the sort of testimony that would be subject to key cross-examination in a deposition and at trial. For this reason, and also because such testimony is not necessary to establish a person's standing to participate in the case, we have not included such a paragraph in our proposed affidavit for individual plaintiffs who we do not plan to call live at trial (subject to reaching agreement on the affidavit). Please let us know whether you will remove paragraph 7.

Also please let us know whether Intervenors consent to our proposed individual plaintiff affidavit.

Thank you.

Regards,
Stanton

Sent from my iPhone

On May 6, 2019, at 9:28 PM, John Branch <JBranch@shanahanlawgroup.com> wrote:

External E-mail

All,

Attached is a sample draft affidavit from one of the intervenors who we do not expect to call to testify at trial.

Best regards,

John Branch

John E. Branch III | Partner



SHANAHAN LAW GROUP, P.L.L.C.

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Phone: (919) 856-9494

Email: jbranch@shanahanlawgroup.com

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<Adrain Arnett Declaration.pdf>

<Adrain Arnett Affidavit.pdf>

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1 either candidate.

2 BY MS. MACKIE:

3 Q. And when you say openly supportive, what do you
4 mean?

5 A. Publicly on social media and any other form of
6 public expression.

7 Q. Okay. Did you donate money to either candidate
8 in that race?

9 A. Not to my recollection, no.

10 Q. And I think that I asked you this, but tell me
11 again why you voted for him over Lee Zachary.

12 MR. PENCOOK: Objection.

13 THE WITNESS: For reasons that were
14 pertaining to his likability as a candidate and
15 the relationship that -- the encounters that we
16 had had and the positive feeling I got from
17 those.

18 BY MS. MACKIE:

19 Q. I'm going to hand you what we'll mark as
20 Exhibit 2.

21 (WHEREUPON, Groce Exhibit 2 was marked
22 for identification.)

23 BY MS. MACKIE:

24 Q. And this is a two-page document. Can you tell
25 me what this is.

1 A. This is the house districts in and around
2 Forsyth County.

3 Q. Okay. And which district do you live in?

4 A. District 73.

5 Q. And can you tell me just generally where your
6 house is in House District 73?

7 A. My house is near the southernmost part of the
8 district in Forsyth County.

9 Q. And actually, I'm going to have you mark on your
10 exhibit where that is.

11 A. Approximately.

12 Q. Approximately.

13 A. (Witness complying.)

14 Q. I won't hold you to it. And actually, if you
15 look at the second page, you've got 421 and I-40
16 coming through there, if that helps you.

17 So you're in Clemmons. Your house is
18 sort of -- if you take Peace Haven Road to
19 Lewisville Clemmons Road and keep going; is that
20 right?

21 A. That's correct.

22 Q. Your house is sort of past the YMCA that way?

23 A. That's correct.

24 Q. Looking at this map -- and maybe the second page
25 might be the better one to look at -- can you

1 tell if the city of Clemmons is contained within
2 House District 73 or whether it's split between
3 73 and 75?

4 MR. PENCOOK: Objection.

5 THE WITNESS: It is not contained
6 within one district.

7 BY MS. MACKIE:

8 Q. Is it split between two districts?

9 MR. PENCOOK: Objection.

10 THE WITNESS: Yes.

11 BY MS. MACKIE:

12 Q. Do you find it odd that Clemmons would be split
13 between two house districts?

14 MR. PENCOOK: Objection.

15 THE WITNESS: No.

16 BY MS. MACKIE:

17 Q. Why not?

18 A. In order to keep the precincts contained, which
19 is very important, it had to be split.
20 District 072 is the only precinct that includes
21 part of Clemmons that is not within the 75th
22 House District, and a large part of Lewisville's
23 voting population is within that precinct as
24 well, whereas Lewisville has, I believe, three
25 precincts and Clemmons has a total of six. So I

1 believe that it was in the best interest to
2 preserve Lewisville and to keep as much of them
3 contained within one district as possible, and
4 it includes a very small part of Clemmons's
5 voting -- voting residents.

6 Q. So five of the six Clemmons precincts are in
7 House District 75 and one is in House
8 District 73?

9 A. That's correct.

10 Q. And you live in the one that's in House
11 District 73?

12 A. That's correct.

13 (WHEREUPON, Groce Exhibit 3 was marked
14 for identification.)

15 BY MS. MACKIE:

16 Q. I'm going to hand you what we've marked as
17 Exhibit 3. This is a map that is shaded which I
18 will represent to you based on the 2016 Attorney
19 General election results.

20 Have you ever looked at a map that's
21 shaded based on election results?

22 A. Yes.

23 Q. In what context?

24 A. Analysis of electoral results.

25 Q. When would you have done that?

1 BY MS. MACKIE:

2 Q. Yes.

3 A. No.

4 (WHEREUPON, Groce Exhibit 4 was marked
5 for identification.)

6 BY MS. MACKIE:

7 Q. Do you know what this is?

8 A. These are the current senate district maps in
9 Forsyth County and the surrounding counties.

10 Q. And I'm going to have you do what you did for
11 your house district and on the second page mark
12 approximately where your residence is.

13 A. (Witness complying.)

14 Q. Can I just see. Okay.

15 Do you see how Senate District 31 sort
16 of wraps around Forsyth County?

17 MR. PENCOOK: Objection.

18 THE WITNESS: I see the parts of
19 Forsyth County that are encompassed by
20 District 33 -- or 31. Excuse me.

21 BY MS. MACKIE:

22 Q. Do you find it odd that the western part of
23 Forsyth County would be paired with the eastern
24 part of Forsyth County?

25 MR. PENCOOK: Objection.

1 THE WITNESS: No.

2 BY MS. MACKIE:

3 Q. Why not?

4 A. Because examining within the confines of Forsyth
5 County, the districts that we use for other
6 elections closely resemble the district lines
7 within the county as well.

8 Q. What do you mean by that?

9 A. The districts that we use for our county
10 commissioner elections, there's a lot of
11 resemblance to the senate district within
12 Forsyth County. The district that we use for
13 our school board elections, same thing.

14 Q. And are those districts that were created
15 locally or created at the General Assembly, if
16 you know?

17 MR. PENCOOK: Objection.

18 THE WITNESS: I believe they were
19 created locally.

20 BY MS. MACKIE:

21 Q. Any other reason that you don't find it odd that
22 Senate District 31 wraps around the county the
23 way it does?

24 MR. PENCOOK: Objection.

25 THE WITNESS: The reason that I don't

1 find it odd that the makeup of the district is
2 as such is because the more suburban parts of
3 the county are included together, and in terms
4 of community alignment, the suburban parts of
5 the county -- and I'm giving you what I know
6 from being a resident for 19 years -- is that
7 those communities tend to interact in many
8 situations more -- and align more than they
9 would align with the city of Winston-Salem.

10 BY MS. MACKIE:

11 Q. So you would say Clemmons, Lewisville,
12 Rural Hall, Kernersville --

13 A. Pfafftown.

14 Q. -- Pfafftown have more in common than with the
15 actual city of Winston-Salem?

16 A. I would.

17 Q. I'm going to hand you the same sort of shaded
18 map which will be Exhibit 5.

19 (WHEREUPON, Groce Exhibit 5 was marked
20 for identification.)

21 BY MS. MACKIE:

22 Q. And I'll represent the same thing I said before:
23 The shading is based on the 2016 Attorney
24 General race.

25 Based on this map and based on what you

STATE OF NORTH CAROLINA
COUNTY OF WAKE

GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18 CVS 014001

COMMON CAUSE, ET AL.,
Plaintiffs,

vs.

DAVID LEWIS, IN HIS OFFICIAL
CAPACITY AS SENIOR CHAIRMAN
OF THE HOUSE SELECT COMMITTEE
ON REDISTRICTING, ET AL.,

Defendants.

DEPOSITION OF
REGINALD REID

10:22 A.M.

TUESDAY, MAY 7, 2019

SHANAHAN LAW GROUP
7501 FALLS OF NEUSE ROAD, SUITE 200
RALEIGH, NORTH CAROLINA

BY: LISA A. WHEELER, RPR, CRR

EXHIBIT

E

1 A. Uh-huh.

2 Q. -- came flying in the night before the
3 election, right, and said, I'm telling you
4 your candidates have no chance of winning.
5 You can vote tomorrow, nobody's going to stop
6 you, but I'm just telling you because I -- I
7 know, I'm the grim reaper of elections,
8 your -- your candidate has no chance to win.
9 How would that make you feel?

10 MR. BRANCH: Objection.

11 A. As I stated previously, I ran in elections
12 where I was not -- I was not expected to win.
13 It's just good to have a different -- a
14 different point of view, a different --

15 Q. So you wouldn't --

16 A. -- view.

17 Q. -- care at all -- I'm sorry. I apologize.
18 You wouldn't care at all if the grim
19 reaper --

20 A. If the grim reaper came in and told me -- if
21 the grim reaper flew in on an airplane?

22 Q. Correct.

23 A. Like I say, I ran in elections in 2012 and
24 2018 where I -- I wasn't supposed to win or
25 expected to win. It wasn't likely that I'd

1 win. They were heavily Democrat. I still
2 ran because sometimes it's good to have a
3 different voice, and no -- no politician in
4 America should go unchallenged at any level
5 so...

6 Q. So -- so you wouldn't care if the grim reaper
7 told you that; you'd say, thanks for the
8 news, good to know, I don't care?

9 A. Like I said, I ran in elections in 2012 and
10 2018 and I wasn't expected to -- I wasn't
11 expected to win and they were heavily
12 Democrat districts.

13 Q. Mr. Reid, are you familiar with the term
14 gerrymandering?

15 A. Yes.

16 Q. What's your understanding of that term?

17 A. There was a governor in Mass- -- early --
18 early part -- late -- late 18th, early 19th
19 century named Elbridge Gerry. He was the
20 governor of Massachusetts. They had a
21 district that was drawn like a salamander.
22 He was vice president of the United States
23 under James Madison. He was ambassador to
24 France. And that's the origin of the term
25 gerrymander after Elbridge Gerry. And -- and