

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(RICHMOND DIVISION)

PAGE, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF
ELECTIONS, *et al.*,

Defendants.

Civil Action No. 3:13-cv-00678-REP-LO-AKD

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION TO QUASH SUBPOENAS TO ROBERT B. BELL, WILLIAM ROBERT
JANIS, AND CHRISTOPHER MARSTON AND/OR FOR A PROTECTIVE ORDER**

Plaintiffs Dawn Curry Page, Gloria Personhuballah, and James Farkas (collectively, the “Plaintiffs”) are seeking third party discovery from Robert B. Bell, William Robert Janis, and Christopher Marston (collectively, the “Movants”). All discovery sought by Plaintiffs is barred by a broad legislative privilege and/or the attorney-client privilege. Additionally, Plaintiffs seek to depose a sitting member of the Virginia General Assembly during a special session, which is improper as a matter of law, and seek discovery of documents and information not relevant in the above-captioned proceeding, all of which imposes an undue burden on Movants.

Plaintiffs filed the above-captioned proceeding on October 2, 2013. The Complaint seeks declaratory and injunctive relief prohibiting the Attorney General of the Commonwealth of Virginia and members of the Virginia Board of Elections from implementing or conducting further elections for the U.S. House of Representatives based on Congressional District 3 of the Congressional Plan enacted in 2012. Plaintiffs allege that the district is unconstitutional under the Fourteenth Amendment to the United States Constitution. (ECF No. 1.) In December 2013,

members of the Virginia Delegation to the U.S. House of Representatives were granted leave to intervene in the proceeding. (ECF No. 26.) The matter is pending before a three-judge panel and is scheduled for trial in May 2014. (ECF No. 54.)

In March 2014, Plaintiffs served three subpoenas on Movants, who are not parties to the proceeding. Robert B. Bell (“Delegate Bell”) is a current member of the Virginia House of Delegates representing the 58th legislative district. William Robert Janis (“Delegate Janis”) is a former member of the Virginia House of Delegates who represented the 56th legislative district from January 2002 through January 2012. Christopher Marston is an attorney admitted to practice in the Commonwealth of Virginia who provided legal and consulting services to the Virginia House of Delegates in connection with the 2010 redistricting cycle. Plaintiffs’ subpoenas to Delegate Bell and Delegate Janis command that they appear for depositions on March 24, 2014 (the “Deposition Subpoenas”). A representative copy of the Deposition Subpoenas is attached hereto as Exhibit A. Plaintiffs’ subpoena to Mr. Marston commands production on March 19, 2014, of a broad range of documents, including a request for “[a]ll documents related to the 2012 Virginia Redistricting” (the “Subpoena *Duces Tecum*”). A true and correct copy of the Subpoena *Duces Tecum* is attached hereto as Exhibit B. Counsel for Plaintiffs agreed to extend the time to respond or object to the subpoenas. Accordingly, Mr. Marston is filing his objections contemporaneously with the Motion. The filing, entitled Objections of Christopher Marston to Plaintiffs’ Third Party Subpoena for the Production of Documents (the “Objections to the Subpoena *Duces Tecum*”), is incorporated herein.

All three subpoenas seek disclosure of information protected by legislative privilege and/or the attorney-client privilege and subject Movants to undue burden. For these reasons, and on the grounds stated in the Objections to the Subpoena *Duces Tecum*, the subpoenas must be

quashed and/or a protective order issued to protect Movants from unwarranted distraction and the burden and expense of responding.

I. THE SUBPOENAS SHOULD BE QUASHED AND/OR A PROTECTIVE ORDER ENTERED

Under the Federal Rules of Civil Procedure, “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense” Fed. R. Civ. P. 26(b)(1). Upon “timely motion,” a court “must quash or modify a subpoena that . . . requires disclosure of privileged or other protected matter, if no exception or waiver applies.” Fed. R. Civ. P. 45(d)(3)(iii); *Cappetta v. GC Servs. Ltd. P’ship*, 266 F.R.D. 121,124 (E.D. Va. 2009). A court also must quash or modify a subpoena that “subjects a person to undue burden.” Fed. R. Civ. P. 45(d)(3)(iv). Similarly, pursuant to Rule 26 of the Federal Rules of Civil Procedure, a court “may, for good cause,” issue a protective order “forbidding the disclosure of discovery,” or “specifying the terms, including the time and place, for the disclosure of discovery.” Fed. R. Civ. P. 26(c)(1)(A)-(B). As outlined below, the legislative and attorney-client privileges preclude Movants from responding to the subpoenas and the scope of the subpoenas impose an undue burden such that there is grounds to quash the subpoenas and good cause to enter a protective order forbidding the third-party discovery sought by Plaintiffs.

A. The Subpoenas Seek Disclosure of Privileged Information

The subpoenas seek information that is protected by both legislative and attorney-client privilege.

1. *Legislative Privilege Precludes Disclosure*

Legislative privilege protects Movants from civil process compelling a response to the subpoenas. The privilege is broad and well-established. Courts, including the Supreme Court of the United States and the United State Court of Appeals for the Fourth Circuit, have “broadly

recognized the right ‘of legislators to be free from arrest or civil process for what they do or say in legislative proceedings.’” *Equal Emp’t Opportunity Comm’n v. Wash. Suburban Sanitary Comm’n*, 631 F.3d 174, 180 (4th Cir. 2011) (quoting and citing *Tenney v. Brandhove*, 341 U.S. 367, 372 (1951)). This right is rooted in the absolute immunity granted by the Speech or Debate Clause of the United States Constitution, which the Supreme Court long ago extended to state legislators. *Tenney*, 341 U.S. at 372. Consistent with *Tenney*, Virginia state constitutional and statutory law provides “legislative immunity for actions taken while within ‘the sphere of legitimate legislative activity.’” *Schiltz v. Commonwealth of Virginia*, 854 F.2d 43, 45 (4th Cir. 1988) (recognizing that *Tenney* extended the protection of the Speech or Debate Clause to state legislators), *overruled on other grounds*, *Berkley v. Common Council of City of Charleston*, 63 F.3d 295 (4th Cir. 1995)); Va. Const. art. IV, § 9; Va. Code Ann. §§ 30-4, 30-6 (West 2013).

The scope of legislative immunity is broad and protects “those engaged in legislative functions against the pressures of litigation and the liability that may result.” *McCray v. Md. Dep’t of Transp., Md. Transit Admin.*, 741 F.3d 480, 484 (4th Cir. 2014); *Bd. of Supervisors of Fluvanna Cnty. v. Davenport & Co.*, 742 S.E.2d 59, 62 (Va. 2013). “Legislative privilege against compulsory process exists to safeguard this legislative immunity,” and to provide policymakers protection “from the burden of defending themselves.” *Wash. Suburban Sanitary*, 631 F.3d at 181. The privilege covers not only legislators, but “all those properly acting in a legislative capacity,” and extends to legislative aides, experts, and consultants who advise legislators. *McCray*, 741 F.3d at 485; *Doe v. McMillan*, 412 U.S. 306, 312 (1973) (recognizing that legislative immunity barred suit against not only Members of Congress, but also “Committee staff” and a “consultant”). Consequently, where “private plaintiffs s[seek] to compel information

from legislative actors about their legislative activity, they [do] not need to comply.”¹ *Wash. Suburban Sanitary*, 631 F.3d at 181. The privilege applies here and necessitates quashing the subpoenas.

The Deposition Subpoenas are covered by the legislative privilege. Delegates Bell and Janis were sitting members of the General Assembly at the time when the Congressional plan at issue in this proceeding was developed and enacted. Activities relating to preparation, introduction, and enactment of legislation are quintessential “legislative activity.” *Bd. of Supervisors*, 742 S.E.2d at 63.

Legislative actions include, but are not limited to, “delivering an opinion, uttering a speech, or haranguing in debate; proposing legislation; voting on legislation; making, publishing, presenting, and using legislative reports; authorizing investigations and issuing subpoenas; and holding hearings and introducing material at Committee hearings.”

Id. (quoting *Fields v. Office of Johnson*, 459 F.3d 1, 10-11 (D.C. Cir. 2006)). As such, Plaintiffs are proscribed from inquiring into any subject matter concerning the deliberative process that led to the creation or enactment of the challenged plan. *Greenburg v. Collier*, 482 F. Supp. 200, 203 (E.D. Va. 1979) (“Legislative motive is beyond inquiry whether it is sought to be established through legislative or political activities.”); *Bd. of Supervisors*, 742 S.E.2d at 63. The Deposition Subpoenas do not identify what subjects Plaintiffs intend to cover, but Movants are not aware of—nor can they envision—any subject matter relevant to the proceedings that would not fall under the legislative privilege.²

¹ As the Fourth Circuit has recognized, “[b]ecause litigation’s costs do not fall on named parties alone, this privilege applies whether or not the legislators themselves have been sued.” *Wash. Suburban Sanitary*, 631 F.3d at 181.

² Apart from the constitutional protection of legislative privilege, Plaintiffs’ attempt to depose Delegate Bell while the General Assembly is in special session is plainly prohibited by the Virginia Code, which shields sitting members of the General Assembly from being compelled to “appear or to answer or respond, in person or in writing” in “any civil proceeding” during a session of the General Assembly or within fifteen days after its conclusion. Va. Code Ann. § 30-4 (West 2013); *see also* Va. Code Ann. § 30-6 (West 2013).

The same is true of the Subpoena *Duces Tecum* to Mr. Marston, which also is covered by the privilege. The subpoena seeks, *inter alia*, “[a]ll maps and draft maps related to the 2012 Virginia Redistricting” and “[a]ll communications” with the General Assembly, members of Congress, the Republican National Committee, and the National Republican Congressional Committee “related to the 2012 Virginia Redistricting.”³ Exhibit B. The term “2012 Virginia Redistricting” is defined to mean “any activity relating to the Virginia General Assembly’s efforts to draw and adopt state legislative and congressional districts in 2010, 2011, and 2012.” *Id.* Accordingly, the Subpoena *Duces Tecum* seeks documents comprising or concerning the deliberative process that led to the development, introduction, and enactment of the challenged Congressional plan, as well as the unchallenged state legislative plans. As outlined above, these topics are squarely within the purview of legislative activity, and attempting to compel production of the requested documents runs afoul of legislative privilege. *See Brown & Williamson Tobacco Corp. v. Williams*, 62 F.3d 408, 421 (D.C. Cir. 1995) (affirming district court’s quashing of subpoenas *duces tecum* issues to federal legislators and recognizing that “[a] party is no more entitled to compel congressional testimony—or a production of documents—than it is to sue congressmen”) (emphasis added).

The fact that the Subpoena *Duces Tecum* is directed to a consultant and attorney, and not to a member of the General Assembly, does not vitiate the protection. *See, e.g., McMillan*, 412 U.S. at 312; *McCray*, 741 F.3d at 485. The question is whether Mr. Marston was performing “services that would be immune legislative conduct if performed by the [legislator] himself.” *Gravel v. United States*, 408 U.S. 606, 622 (1972). This question is easily answered in the

³ The sixth request in the Subpoena *Duces Tecum* seeks “[a]ll public statements made by [Mr. Marston] related to the 2012 Virginia Redistricting.” Exhibit B. Movants do not contend that documents responsive to this request would be covered by legislative privilege, but because there are no documents responsive to the request, it does not impact application of the legislative privilege. *See* Objections to the Subpoena *Duces Tecum*, filed in the above-captioned proceeding and incorporated herein.

affirmative here. Mr. Marston advised members of the General Assembly concerning the redistricting process, including but not limited to the development and enactment of all three of Virginia's (challenged and unchallenged) redistricting plans, which is legislative conduct. Because he functioned as a legislative actor, Mr. Marston is entitled to the same protections afforded to the members themselves and the Subpoena *Duces Tecum* should be quashed. See *McCray*, 741 F.3d at 485.

2. The Attorney-Client Privilege Applies to the Subpoena *Duces Tecum*

Additionally, many of the documents sought by the Subpoena *Duces Tecum* are covered by the attorney-client privilege and not subject to discovery. The attorney-client privilege has been recognized in Virginia for more than a century:

It is conceded, and if it were not it is well settled, that confidential communications between an attorney and his client made because of that relationship and concerning the subject matter of the attorney's employment, are privileged from disclosure, even for the purpose of administering justice.

Grant v. Harris, 82 S.E. 718, 719 (Va. 1914). Under the Federal Rules of Civil Procedure, parties may only obtain discovery of relevant material to the extent it is not privileged. Fed. R. Civ. P. 26(b)(1). Thus, where the attorney-client privilege applies, Plaintiffs are not entitled to discovery, and given the breadth of the requests in the Subpoena *Duces Tecum*, the privilege is likely to apply broadly here.

Mr. Marston is an attorney licensed to practice in the Commonwealth of Virginia and provided legal counsel to the Virginia General Assembly during the 2010 redistricting cycle. As such, all written or verbal communications between Mr. Marston and members of the General Assembly wherein Mr. Marston provided legal advice are privileged. These same communications are likely to be responsive to the Subpoena *Duces Tecum*, which requests all documents related to the redistricting, including maps, draft maps, or documents evidencing

efforts to create such maps, and all communications with the General Assembly relating to the redistricting. *See* Exhibit B. While a party ordinarily asserts the attorney-client privilege on a document-by-document basis, the sheer breadth of the subpoena's demands for communications hinders Mr. Marston's ability to claim the privilege even where lawfully and properly asserted due to the extraordinary burden and expense—which would be imposed on a third party—of reviewing hundreds of e-mail communications.

B. The Subpoenas Impose an Undue Burden on Movants

The Deposition Subpoenas and the Subpoena *Duces Tecum* impose an undue burden on Movants. Movants are not parties to the proceeding and, while third-party discovery is permitted under the Federal Rules of Civil Procedure, a subpoena that “seeks information irrelevant to the case or that would require a non-party to incur excessive [or unnecessary] expenditure of time or money” imposes an undue burden and must be quashed. *Singlary v. Sterling Transport Co.*, 289 F.R.D. 237, 241 (E.D. Va. 2012) (quoting *Cook v. Howard*, No. 11-1601, 2012 WL 3634451, at *6 n.7 (4th Cir. Aug. 24, 2012)). All three subpoenas fall into this category.

The Subpoena *Duces Tecum* seeks the production of documents not relevant to the above-captioned proceeding. During the 2010 redistricting cycle, the General Assembly enacted three plans, one being the Congressional plan challenged here, and the remaining two being state legislative plans, which are *not* challenged in this proceeding. Nonetheless, the Subpoena *Duces Tecum* explicitly requests documents comprising or relating to the state legislative plans. Exhibit B (defining the term “2012 Virginia Redistricting” to include “efforts to draw and adopt state legislative . . . districts”). As discussed above, any responsive documents would be subject to legislative or attorney-client privilege, but even assuming that some are not, documents and information concerning the state legislative plans are irrelevant and unlikely to be admissible in

the trial of the case at bar. It is not permissible to require Mr. Marston to respond to such broad and untethered requests, particularly when doing so would entail considerable time and expense.

The Deposition Subpoenas likewise impose an undue burden on Delegate Bell and Delegate Janis. As noted above, Delegate Bell is presently engaged in a special legislative session called by the Governor and, as a matter of law, cannot be compelled to appear in any civil proceeding until a specified period of time after the session adjourns. Va. Const. art. IV, § 9; Va. Code Ann. §§ 30-4, 30-6 (West 2013). On a more practical level, Delegate Bell does not have the time to appear for a deposition without neglecting his legislative duties.

Furthermore, given the application of legislative privilege, there is no reason to believe it fruitful to depose Delegate Janis or Delegate Bell. Plaintiffs have not identified any relevant topic of which either Movant has knowledge that is not protected from disclosure by the legislative privilege. Neither Delegate Bell nor Delegate Janis should be burdened with the distraction and expense of planning and preparing for a deposition unless Plaintiffs can identify relevant subject matter not protected by the privilege.

II. CONCLUSION

For the reasons set forth above, Movants respectfully request that their Motion be granted.

Dated: March 28, 2014

Respectfully submitted,

ROBERT B. BELL, WILLIAM ROBERT JANIS,
AND CHRISTOPHER MARSTON

By Counsel

/s/ Jennifer M. Walrath

Frederick W. Chockley, III (VSB No. 21982)

Jennifer M. Walrath (VSB No. 75548)

BAKER HOSTETLER LLP

1050 Connecticut Avenue, NW

Suite 1100

Washington, DC 20036

Telephone: 202.861.1500

Facsimile: 202.861.1783

fchockley@bakerlaw.com

jwalrath@bakerlaw.com

Of counsel:

E. Mark Braden

BAKER & HOSTETLER LLP

1050 Connecticut Avenue, NW

Suite 1100

Washington, DC 20036

Telephone: 202.861.1500

Facsimile: 202.861.1783

mbraden@bakerlaw.com

*Attorneys for Robert B. Bell, William Robert Janis,
and Christopher Marston*

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of March, 2014, a copy of the foregoing Memorandum of Points and Authorities in Support of Motion to Quash Subpoenas to Robert B. Bell, William Janis, and Christopher Marston and/or for a Protective Order was filed and served pursuant to the Court's electronic filing procedures using the Court's CM/ECF system on the following counsel of record:

John Kuropatkin Roche
John Michael Devaney (admitted *pro hac vice*)
Kevin Hamilton (admitted *pro hac vice*)
Marc Erik Elias (admitted *pro hac vice*)
PERKINS COIE LLP
700 13th Street, NW
Washington, DC 20005
melias@perkinscoie.com
jroche@perkinscoie.com
jdevaney@perkinscoie.com
khamilton@perkinscoie.com
Attorneys for Plaintiffs

Mike Melis
OFFICE OF THE ATTORNEY GENERAL
900 E. Main Street
Richmond, VA 23219
mmelis@oag.state.va.us
Attorneys for Defendants

Cullen Dennis Seltzer
SANDS ANDERSON PC
1111 E. Main Street
24th Floor
P.O. Box 1998
Richmond, VA 23219-1998
cseltzer@sandsanderson.com
Attorneys for Interested Parties
Clerk of the Virginia Senate,
Clerk of the Virginia House, and
Division of Legislative Services

John Matthew Gore (admitted *pro hac vice*)

Jonathan Andrew Berry

Michael Anthony Carvin

JONES DAY

51 Louisiana Avenue, NW

Washington, DC 20001

macarvin@jonesday.com

jmgore@jonesday.com

jberry@jonesday.com

Attorneys for Intervenor Defendants

Eric Cantor, Robert Wittman,

Bob Goodlatte, Frank R. Wolf,

Randy Forbes, Morgan Griffith,

Scott Rigell, and Robert Hurt

/s/ Jennifer M. Walrath

Frederick W. Chockley, III (VSB No. 21982)

Jennifer M. Walrath (VSB No. 75548)

BAKER HOSTETLER LLP

1050 Connecticut Avenue, N.W.

Suite 1100

Washington, D.C. 20036

Tel.: 202-861-1680

Fax: 202-861-1783

fchockley@bakerlaw.com

jwalrath@bakerlaw.com

*Attorneys for Robert B. Bell, William Robert Janis,
and Christopher Marston*

Exhibit A

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Dawn Curry Page, et al.,
Plaintiff
v.
Virginia State Board of Elections, et al.,
Defendant
Civil Action No. 3:13-cv-00678-REP-LO-AKD

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Mr. William R. "Bill" Janis
2150 Plainview Business Center, Powhatan, Virginia 23219
(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place (Hilton Garden Inn, 501 East Broad Street, Richmond, VA 23219) and Date and Time (03/24/2014 9:00 am)

The deposition will be recorded by this method: Sound and Videographic Recording

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/05/2014

CLERK OF COURT

OR

Handwritten signature of John M. Devaney

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Dawn Curry Page, et al., who issues or requests this subpoena, are: John Devaney - 700 13th St NW #600, Washington, DC 20005 - 202-654-6200 - jdevaney@perkinscoie.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88A (Rev. 02/14) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 3:13-cv-00678-REP-LO-AKD

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named individual as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

Dawn Curry Page, et al.,

Plaintiffs,

v.

Virginia State Board of Elections, et al.,

Defendants.

No. 3:13-cv-00678-REP-LO-AKD

NOTICE OF DEPOSITION

TO: Mr. William R. "Bill" Janis

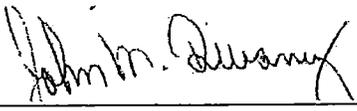
AND TO: His counsel of record, Cullen Seltzer of Sands Anderson, 1111 East Main St, Suite 2400, Richmond, Virginia 23218-199, and counsel of record for the Defendants and Intervenor-Defendants

PLEASE TAKE NOTICE, pursuant to Federal Rule of Civil Procedure 30 and 45, that the testimony of the person named below will be taken upon oral examination at the request of Plaintiffs Dawn Curry Page, Gloria Personhuballah, and James Farkas in the above-entitled action, before a Notary Public, at the time, date, and place specified below. The testimony will be recorded by sound and videographic recording.

| <u>Deponent</u> | <u>Place of Depositions</u> | <u>Date and Time</u> |
|-----------------------------------------------------------------------------------------------|-------------------------------------------------------------------|---------------------------|
| Mr. William R. "Bill" Janis 2150 Plainview Business Center, Powhatan, Virginia 23219 | Hilton Garden Inn 501 East Broad Street, Richmond, VA 23219 | March 24, 2014 at 9:00 am |

The deposition shall be subject to continuance or adjournment from time to time and place to place until completed.

DATED this 5th day of March, 2014.

By: 

John M. Devaney, *pro hac vice*
JDevaney@perkinscoie.com
Perkins Coie, LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that on March 5, 2014, I caused to be served the Notice of Deposition and Subpoena to Testify at a Deposition in a Civil Action on the parties listed below by the method indicated:

VIA EMAIL AND U.S. MAIL

Mr. Cullen Seltzer
Sands Anderson,
1111 East Main St, Suite 2400
Richmond, VA 23218-199
Attorney for Mr. Janis

Mike Melis
Office of the Attorney General (Richmond)
900 E Main St
Richmond, VA 23219
Email: mmelis@oag.state.va.us
Attorney for Defendants
Michael Anthony Carvin

John Matthew Gore
Jonathan Andrew Berry
Jones Day
51 Louisiana Ave NW
Washington, DC 20001
Email: macarvin@jonesday.com
Email: jmgore@jonesday.com
Email: jberry@jonesday.com
Attorneys for Intervener-Defendants

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

DATED this 5th day of March, 2014.


Christina Lewis, Litigation Secretary

Exhibit B

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

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Dawn Curry Page, et al.,

Plaintiff

v.

Virginia State Board of Elections, et al.,

Defendant

Civil Action No. 3:13-cv-00678-REP-LO-AKD

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

To:

Chris Marston

110 Shooters Ct, Alexandria, VA 22314

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See attached Subpoena

Place: Perkins Coie 700 13th St NW #600, Washington, DC 20005 Date and Time: 03/19/2014 12:00 pm

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 03/05/2014

CLERK OF COURT

OR

John M. Devaney (handwritten signature)

Signature of Clerk or Deputy Clerk

Attorney's signature

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

Dawn Curry Page, et al., who issues or requests this subpoena, are:

John Devaney - 700 13th St NW #600, Washington, DC 20005 - 202-654-6200 - jdevaney@perkinscoie.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

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

Civil Action No. 3:13-cv-00678-REP-LO-AKD

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

DOCUMENTS TO PRODUCE

1. All maps and draft maps related to the 2012 Virginia Redistricting, and all documents related to any efforts by you, your staff members, agents, consultants, employees, advisors, experts, and personnel to create such maps.
2. All communications with the General Assembly related to the 2012 Virginia Redistricting, including without limitation all communications with General Assembly staff members, agents, employees, consultants, advisors, experts, and personnel.
3. All communications with members of Congress related to the 2012 Virginia Redistricting, including without limitation all communications with their staff members, agents, employees, consultants, advisors, experts, and personnel.
4. All communications with the Republican National Committee related to the 2012 Virginia Redistricting, including without limitation all communications with its members, staff members, agents, employees, consultants, advisors, experts, and personnel.
5. All communications with the National Republican Congressional Committee related to the 2012 Virginia Redistricting, including without limitation all communications with its members, staff members, agents, employees, consultants, advisors, experts, and personnel.
6. All public statements made by you related to the 2012 Virginia Redistricting.
7. All documents related to the 2012 Virginia Redistricting, including without limitation all emails, letters, notes, press releases, and other documents.

DEFINITIONS AND INSTRUCTIONS

**THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) – 2**

70916-0020/LEGAL120036671.1

Perkins Coie LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

1. Except as specifically defined below, the terms used in this Subpoena shall be construed and defined in accordance with the Federal Rules of Civil Procedure, wherever applicable. Any terms not defined shall be given their ordinary meaning.
2. "2012 Virginia Redistricting" means any activity relating to the Virginia General Assembly's efforts to draw and adopt state legislative and congressional districts in 2010, 2011, and 2012.
3. "General Assembly" means any current or former member of the Virginia General Assembly, the Virginia House of Delegates, the Senate of Virginia, and their current and former staff members, agents, employees, consultants, experts, and personnel, and including but not limited to employees of the Virginia Division of Legislative Services and their agents, consultants, experts, and personnel.
4. "Members of Congress" means any current or former member of Congress, the United States House of Representatives, the United States Senate, and their current and former staff members, agents, employees, consultants, advisors, experts, and personnel.
5. The word "documents" is used in its customary broad sense and includes all written, typed, printed, recorded or graphic statements, emails, communications or other matter, however produced or reproduced, and whether or not now in existence, in your possession, custody or control, including: writings; emails; bulletins; notices; maps; draft maps; Word documents; PDFs; spreadsheets; studies; analyses; tabulations; reports; reviews; agreements; contracts; communications, including intracompany communications, letters or other correspondence; messages; telegrams; telexes; cables; electronically stored information; memoranda; records; notes; reports; summaries; sound recordings or transcripts of personal or telephone conversations; meetings; conferences or interviews; telephone toll

THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) – 3

70916-0020/LEGAL120036671.1

Perkins Coie LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

records; diaries; desk calendars; appointment books; forecasts; accountants' work papers; drawings; graphs; charts; diagrams; blueprints; tables; indices; pictures; photographs; films; phonograph records; tapes; microfilm; microfiche; charges; ledgers; accounts; cost sheets; financial statements or reports; statistical or analytical records; minutes or records of board of directors, committee or other meetings or conferences; reports or summaries of investigations; opinions or reports or summaries of investigations; opinions or reports of consultants; appraisals; reports or summaries of negotiations; books; brochures; pamphlets; circulars; trade letters; press releases; newspaper and magazine clippings; stenographic, handwritten or any other notes; notebooks; projections; working papers; checks, front and back; check stubs or receipts; invoice vouchers; tape data sheets or data processing cards and discs or any other written, recorded, transcribed, punched, taped, filed or graphic matter, however produced or reproduced; and any other document, writing or other data compilation of whatever description, including but not limited to any information contained in any computer although not yet printed out or the memory units containing such data from which information can be obtained or translated into reasonable usable form, and all drafts and non-identical copies of the foregoing.

6. The term "electronically stored information" means information stored in or on any electronic medium or device, including computers, network servers, computer hard drives, e-mails, voicemails, CDs, DVDs, tapes, websites, intranet, extranet, databases, Personal Digital Assistants (PDAs), mobile phones, smart phones, flash drives, thumb drives and USB drives, whether portable or not, regardless of the software or application used to generate or store the document, data, information or item.

THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) – 4

70916-0020/LEGAL120036671.1

Perkins Coie LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

7. The word "communication" means any transmission or exchange of information between two or more persons orally or in writing and includes, without limitation, any conversation or discussion, whether face-to-face or by means of any telephone, telegraph, telecopies, electronic, or other media.

8. The phrase "related to" shall mean, without limitation, directly or indirectly constituting, evidencing, concerning, regarding, mentioning, discussing, describing, commenting upon, referring to, pertaining to, being connected with or reflecting upon the stated subject matter.

9. "And" and "or" shall be construed conjunctively or disjunctively as necessary to bring within the scope of these requests information that might otherwise be construed as being outside their scope. The use of the words "including" shall be construed to mean "without limitations."

10. This subpoena shall be deemed continuing so as to require supplemental responses if you obtain further documents after the time your responses are served.

11. File folders with tabs or labels identifying documents responsive to these requests should be produced intact with the documents.

12. Documents attached to each other should not be separated.

13. Documents shall be produced in Tagged Image File Format ("TIFF"), single page, black and white (or in color, if necessary for any given document or its content to be readable), dithered (if appropriate), at 300 x 300 dpi resolution and 8½ x 11 inch page size, except for documents requiring different resolution or page size to make them readable.

Each TIFF document shall be produced with an image load file in standard Opticon (*.log) format that reflects the parent / child relationship. In addition, each TIFF document shall

THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) - 5

70916-0020/LEGAL120036671.1

Perkins Coie LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

also be produced with a data load file in Concordance delimited format (*.dat), indicating (at a minimum) appropriate unitization of the documents, including beginning and ending production numbers for (a) each document set, and (b) each attachment within each document set. The TIFF images shall also be accompanied by extracted text or, for those files that do not have extracted text upon being processed (such as hard copy documents), optical character recognition ("OCR") text data; such extracted text or OCR text data shall be provided in document level form and named after the TIFF image. Documents that contain redactions shall be OCR'd after the redaction is applied to the image, and the OCR will be produced in place of extracted text at the document level. Notwithstanding the foregoing, the parties may negotiate a separate production format (including native format) for any documents that are not reasonably producible or readable as standard image files, such as audio files or large spreadsheets.

14. For documents produced in TIFF format that originated in electronic form, metadata shall be included with the data load files described above, and shall include (at a minimum) the following information: file name (including extension); original file path; page count; creation date and time; last saved date and time; last modified date and time; author; custodian of the document (that is, the custodian from whom the document was collected or, if collected from a shared drive or server, the name of the shared drive or server); and MD5 hash value. In addition, for email documents, the data load files shall also include the following metadata: sent date; sent time; received date; received time; "to" name(s) and address(es); "from" name and address; "cc" name(s) and address(es); "bcc" name(s) and address(es); subject; names of attachment(s); and attachment(s) count. All

THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) – 6

70916-0020/LEGAL120036671.1

Perkins Coie LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

images and load files must be named or put in folders in such a manner that all records can be imported without modification of any path or file name information.

15. If you contend that it would be unreasonably burdensome to obtain and provide all of the documents called for, then:

- a. Produce all such documents as are available to you without undertaking what you contend to be an unreasonable request;
- b. Describe with particularity the efforts made by you or on your behalf to produce such documents, including, without limitation, identification of persons consulted, description of files, records and documents reviewed, and identification of each person who participated in the gathering of such documents, with specification of the amount of time spent and the nature of work done by such person; and
- c. State with particularity the grounds upon which you contend that additional efforts to produce such documents would be unreasonable.

16. With respect to any document withheld from production on a claim of privilege or work product protection, please provide a written privilege log identifying each document individually and containing all information required by Rule 26(b)(5) of the Federal Rules of Civil Procedure.

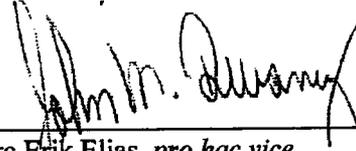
**THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) – 7**

70916-0020/LEGAL120036671.1

Perkins Coie LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

Dated: March 5, 2014

By:



Marc Erik Elias, *pro hac vice*
Bar No. 442007
John M. Devaney, *pro hac vice*
Bar No. 375465
JDevaney@perkinscoie.com
PERKINS COIE LLP
700 Thirteenth Street, N.W., Suite 600
Washington, D.C. 20005-3960
Telephone: 202.654.6200
Facsimile: 202.654-6211

Kevin J. Hamilton, *pro hac vice*
Bar No. 15648
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000

Attorneys for Plaintiffs

THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) – 8

70916-0020/LEGAL120036671.1

Perkins Coie LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

CERTIFICATE OF SERVICE

On March 5, 2014, I caused to be served, at the address stated below, via the method of service indicated, a true and correct copy of the Subpoena to Produce Documents and above description of documents.

VIA HAND DELIVERY

Chris Marston
110 Shooters Ct
Alexandria, VA 22314

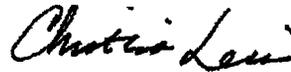
VIA EMAIL AND U.S. MAIL

Mike Melis
Office of the Attorney General (Richmond)
900 E Main St
Richmond, VA 23219
Email: mmelis@oag.state.va.us
Attorney for Defendants

Michael Anthony Carvin
John Matthew Gore
Jonathan Andrew Berry
Jones Day
51 Louisiana Ave NW
Washington, DC 20001
Email: macarvin@jonesday.com
Email: jmgore@jonesday.com
Email: jberry@jonesday.com
Attorneys for Intervener-Defendants

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

DATED this 5th day of March, 2014.



Christina Lewis

THIRD PARTY SUBPOENA FOR THE
PRODUCTION OF DOCUMENTS (3:13-CV-
678) – 9

70916-0020/LEGAL120036671.1

Perkins Cole LLP
700 Thirteenth St. N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202.654.6200
Fax: 202.654.6211

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(RICHMOND DIVISION)

PAGE, *et al.*,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF
ELECTIONS, *et al.*,

Defendants.

Civil Action No. 3:13-cv-00678-REP-LO-AKD

**ORDER GRANTING MOTION TO QUASH SUBPOENAS TO ROBERT B. BELL,
WILLIAM ROBERT JANIS, AND CHRISTOPHER MARSTON
AND/OR FOR A PROTECTIVE ORDER**

Upon consideration of the Motion to Quash Subpoenas to Robert B. Bell, William Robert Janis, and Christopher Marston and/or for a Protective Order (the “Motion”) filed herein, the Court having considered the Motion, the Memorandum of Points and Authorities in support thereof, any opposition thereto, and any oral argument thereon, and it appearing to the Court after due deliberation that the relief requested is appropriate, it is by the Court this ____ day of April, 2014,

ORDERED, that the Motion be, and it is hereby, granted; and it is further

ORDERED, that the subpoenas to Robert B. Bell, William Robert Janis, and Christopher Marston (the “Subpoenas”) be, and they are hereby, quashed; and it is further

ORDERED, that the discovery sought by the Subpoenas not be had.

Hon.
United States Judge

Copies to:

Frederick W. Chockley, III (VSB No. 21982)
Jennifer M. Walrath (VSB No. 75548)
BAKER HOSTETLER LLP
1050 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036
Telephone: 202.861.1500
Facsimile: 202.861.1783
fchockley@bakerlaw.com
jwalrath@bakerlaw.com

Of counsel:
E. Mark Braden
BAKER HOSTETLER LLP
1050 Connecticut Avenue, NW
Suite 1100
Washington, DC 20036
Telephone: 202.861.1500
Facsimile: 202.861.1783
mbraden@bakerlaw.com

*Attorneys for Robert B. Bell, William Robert Janis,
and Christopher Marston*

John Kuropatkin Roche
John Michael Devaney (admitted *pro hac vice*)
Kevin Hamilton (admitted *pro hac vice*)
Marc Erik Elias (admitted *pro hac vice*)
PERKINS COIE LLP
700 13th Street, NW
Washington, DC 20005
melias@perkinscoie.com
jroche@perkinscoie.com
jdevaney@perkinscoie.com
khamilton@perkinscoie.com

Attorneys for Plaintiffs

Mike Melis
OFFICE OF THE ATTORNEY GENERAL
900 E. Main Street
Richmond, VA 23219
mmelis@oag.state.va.us

Attorneys for Defendants

Cullen Dennis Seltzer
SANDS ANDERSON PC
1111 E. Main Street
24th Floor
P.O. Box 1998
Richmond, VA 23219-1998
cseltzer@sandsanderson.com

*Attorneys for Interested Parties
Clerk of the Virginia Senate,
Clerk of the Virginia House, and
Division of Legislative Services*

John Matthew Gore (admitted *pro hac vice*)
Jonathan Andrew Berry
Michael Anthony Carvin
JONES DAY
51 Louisiana Avenue, NW
Washington, DC 20001
macarvin@jonesday.com
jmgore@jonesday.com
jberry@jonesday.com

*Attorneys for Intervenor Defendants
Eric Cantor, Robert Wittman,
Bob Goodlatte, Frank R. Wolf,
Randy Forbes, Morgan Griffith,
Scott Rigell, and Robert Hurt*