IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
NO. 1:15-CV-00399

SANDRA LITTLE COVINGTON, *et al.*,	)
	)
Plaintiffs,	)
	)
v.	)
	)
STATE OF NORTH CAROLINA, *et al.*	)
	)
Defendants.	)
	)

DEFENDANTS' RULE 26(a)(3)(A) PRETRIAL DISCLOSURES

Defendants, under Fed. R. Civ. P. 26(a)(3)(A), provide the following pretrial disclosures for the trial set to begin on April 11, 2016:

I. WITNESSES DEFENDANTS EXPECT TO PRESENT OR MAY PRESENT AT TRIAL

Under Fed. R. Civ. P. 26(a)(3)(A)(i), Defendants expect to present the following witnesses at trial:

Dr. Thomas Hofeller
c/o Ogletree Deakins
4208 Six Forks Road
Suite 1100
Raleigh, NC 27609

Representative David Lewis
North Carolina House of Representatives
16 W. Jones Street
Room 2301
Raleigh, North Carolina

Brian Neesby
North Carolina State Board of Elections ("NC SBE")
441 North Harrington Street

Raleigh, North Carolina 27603

Senator Bob Rucho
North Carolina Senate
300 N. Salisbury Street
Room 300-A
Raleigh, North Carolina 27603

Under Fed. R. Civ. P. 26(a)(3)(A)(i), Defendants may call the following witnesses at trial if the need arises:

Valencia Applewhite
5813 Mondavi Place
Fayetteville, NC 28314

Dr. Thomas L. Brunell
c/o Ogletree Deakins
4208 Six Forks Road
Suite 1100
Raleigh, NC 27609

Susan Sandler Campbell
1208 Brookstown Ave.
Winston-Salem, NC

Erika Churchill
Principal Legislative Analyst, Research Division
North Carolina General Assembly
300 N. Salisbury Street
Raleigh, North Carolina

Scott Falmlen
Nexus Strategies, Inc.
434 Fayetteville Street
Suite 2020
Raleigh, NC 27601

Dan Frey
North Carolina General Assembly
300 N. Salisbury Street
Raleigh, North Carolina

Jamal Fox
2026 Chapel Park Lane
Greensboro, NC 27405

Dr. Trey Hood
Professor
University of Georgia
Athens, GA 30602

Ruth Samuelson
1432 Ferncliff Road
Charlotte, NC 28211

Kim Westbrook Strach, Executive Director
NC SBE
441 North Harrington Street
Raleigh, North Carolina 27603

Mr. Sean P. Trende
146 Elderberry Loop
Delaware, Ohio 43015

Douglas A. Wilson
15163 Deshler Court
Charlotte, NC 28273

Defendants reserve the right to present other witnesses depending upon the evidence offered by Plaintiffs at the trial, including witnesses to impeach or rebut any witness's testimony or evidence.

II. WITNESSES WHO DEFENDANTS EXPECT TO PRESENT BY DEPOSITION

Under Fed. R. Civ. P. 26(a)(3)(A)(ii), Defendants submit the following designations of the deposition testimony taken during discovery in the above-captioned matter:

Defendants are contemporaneously filing their Designations of Deposition Testimony from depositions taken in this action along with these disclosures. These designations are hereby incorporated by reference.

In addition to the designations contained in Defendants' Designations of Deposition Testimony, Defendants also designate the following testimony from depositions taken in *Dickson v. Rucho*[1]:

Deposition Designations for Theodore S. Arrington[2] May 15, 2012			
BEG PAGE	**BEG LINE**	**END PAGE**	**END LINE**
22	24	23	13
30	8	32	2
85	17	88	8
105	12	106	7
112	22	114	18
142	2	146	19
191	2	191	21
215	10	216	25

Defendants also designate all deposition testimony cited by the three-judge panel in *Dickson v. Rucho* in their Judgment and Memorandum Decision and the Appendices to

[1] All references herein to *Dickson* or *Dickson v. Rucho* means the combined cases of *Dickson v. Rucho* and *North Carolina State Conference of Branches of the NAACP v. The State of North Carolina* (Wake County Superior Court Case Nos. 11-CVS-16896 and 11-CVS-16940).

[2] A condensed copy of Mr. Arrington's deposition transcript with these designations highlighted is attached to these disclosures.

the Judgment and Memorandum Decision that relate to the North Carolina House and Senate districts at issue in this litigation, including but not limited to the following testimony cited in the Memorandum Decision: Arrington Dep. pp. 78, 80, 99-100, 119, 202; Deposition of Cherie Poucher (March 27, 2012) pp. 49, 43; Deposition of Charlie Collicutt (March 15, 2012) pp. 46-47; Deposition of Anthony Fairfax (May 17, 2012) pp. 24, 76-77; Deposition of Gary Bartlett (Aug. 1, 2012) pp. 21-22; Deposition of Kelly Doss (March 15, 2012), pp. 19-20.

III. DOCUMENTS AND EXHIBITS, INCLUDING SUMMARIES OF EVIDENCE, THAT DEFENDANTS EXPECT TO OFFER OR MAY OFFER AT TRIAL

Under Fed. R. Civ. P. 26(a)(3)(A)(iii) Defendants provide below the following list of exhibits that they expect to offer at trial:

- **Exhibit 1** contains a list of joint exhibits that Defendants have proposed to Plaintiffs. Defendants will continue to work with Plaintiffs as instructed by the Court to agree upon a joint exhibits list, however, Defendants expect to offer all of the exhibits listed in Exhibit 1 at trial.
- **Exhibit 2** contains a list of all documents filed with the Court and attached to Defendants' Opposition to Plaintiffs' Motion for Preliminary Injunction.

Under Fed. R. Civ. P. 26(a)(3)(A)(iii), Defendants provide the following list of exhibits that they may offer at trial:

- **Exhibit 3** contains a list of exhibits used in depositions taken by Defendants in this action that Defendants may offer at trial. Additionally, transcripts of the depositions that have been designated and referenced in Section II above, including those portions designated from *Dickson v. Rucho* deposition transcripts, may be offered as trial exhibits.

- **Exhibit 4** contains a list of exhibits from *Dickson v. Rucho* that Defendants may offer at trial. In addition to the items listed in Exhibit 4, Defendants also may rely upon the following affidavits and documents from *Dickson v. Rucho* not listed elsewhere in these disclosures: First Affidavit of David Lewis (Jan. 19, 2012); First Affidavit of Thomas B. Hofeller (Jan. 19, 2012); Second Affidavit of Thomas B. Hofeller (Feb. 8, 2012); Complete Report on Racially Polarized Voting in North Carolina by Thomas L. Brunell (June 14, 2011); All Exhibits to the Deposition of Erika Churchill. In providing this list of exhibits, Defendants do not waive and reserve the right to present and rely upon at trial any additional exhibits from this matter or from *Dickson v. Rucho* that may be relevant to the claims or defenses at issue in this action.

- All documents, including but not limited to affidavits, exhibits to affidavits, and deposition exhibits, cited by the three-judge panel in *Dickson v. Rucho* in their Judgment and Memorandum Decision and the Appendices to the Judgment and

Memorandum Decision that relate to the North Carolina House and Senate districts at issue in this litigation.

- Documents showing the population and voting age population by race of city council districts in Greensboro and Fayetteville, including relevant documents submitted by those municipalities to the United States Department of Justice to obtain preclearance of those districts.

This the 14th day of March, 2016.

NORTH CAROLINA DEPARTMENT OF JUSTICE

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CERTIFICATE OF SERVICE

I, Thomas A. Farr, hereby certify that I have this day electronically filed the foregoing **DEFENDANTS' RULE 26(a)(3)(A) PRETRIAL DISCLOSURES** with the Clerk of Court using the CM/ECF system which will provide electronic notification of the same to the following:

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This the 14th day of March, 2016.

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