

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

SANDRA LITTLE COVINGTON, *et al.*,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et al.*,

Defendants.

**PLAINTIFFS' REPORT
REGARDING REMEDIES**

Pursuant to the Court's Order for Supplementary Briefing Schedule, (ECF No. 124, August 15, 2016), counsel for the parties met by telephone conference at 10:00 am on September 9, 2016 to confer regarding those matters set forth in the order, viz., "the appropriate deadline for the North Carolina legislature to draw new districts, the question of whether additional relief would be appropriate before the regularly scheduled elections in 2018, and, if so, the nature and form of that relief." The parties were unable to reach agreement as to the matters discussed.

Plaintiffs request that the Court:

- (a) Establish 5:00 pm on January 25, 2017 as the deadline for the General Assembly to enact legislation establishing new districts that cure the defects found by the Court in certain districts in the 2011 House and Senate Redistricting Plans. This timeframe is essential to allow special elections to occur in 2017 under a reasonable election schedule and is consistent with the timeframe established by the General Assembly itself in N.C. Gen. Stat. § 120-2.4 for enacting curative plans.
- (b) Order the Defendants to provide the Court and the Plaintiffs the following documents and information no later than 7 days following the enactment of new plans so that the Plaintiffs and the Court may make a prompt and informed

decision whether the new plans cure the defects identified by the Court in its August 12, 2016, decision, and are otherwise constitutional:

- i. a transcript of all committee and floor debates;
- ii. the “stat pack” for the enacted plans;
- iii. a description of the process the General Assembly followed in enacting the new plans, including the identity of all participants involved in the process;
- iv. the criteria the General Assembly applied in drawing the districts in the new plans, including the extent to which race was a factor in drawing any district in which the BVAP is greater than 50%; and
- v. the factual basis upon which the General Assembly concluded that the VRA obligated it to draw any district with a BVAP greater than 50%.

(c) Order the Plaintiffs to inform the Court by written brief filed no later than 7 days following receipt of the documents and information described above in (b) whether they contend that the new plans fail to cure the defects identified by the Court in its August 12, 2016 decision, or otherwise violate federal law, and the legal and factual bases for that contention.

(d) Order Defendants to respond to Plaintiffs’ objections 7 days from the date on which Plaintiffs file objections.

(e) Appoint a special master to draw new House or Senate plans in the event the General Assembly fails to enact new House or Senate plans by 5:00 pm on January 25, 2017.

The parties also discussed, but did not reach agreement on, the need for additional injunctive relief, including the need for a special election in 2017 and the need to shorten the residency period for election to the House and Senate prescribed by Article II, section 6 and 7 of the North Carolina Constitution. In accordance with the Court’s August 15 and August 19 Orders, Plaintiffs will file a motion and brief by September 30, 2016 supporting their request for special elections and other forms of relief.

This the 9th day of September, 2016.

POYNER SPRUILL LLP

By: s/ Edwin M. Speas, Jr.

Edwin M. Speas, Jr.
N.C. State Bar No. 4112
espeas@poynerspruill.com
John W. O'Hale
N.C. State Bar No. 35895
johale@poynerspruill.com
Caroline P. Mackie
N.C. State Bar No. 41512
cmackie@poynerspruill.com
P.O. Box 1801 (27602-1801)
301 Fayetteville St., Suite 1900
Raleigh, NC 27601
Telephone: (919) 783-6400
Facsimile: (919) 783-1075

Counsel for Plaintiffs

**SOUTHERN COALITION FOR
SOCIAL JUSTICE**

By: s/ Anita S. Earls

Anita S. Earls
N.C. State Bar No. 15597
anita@southerncoalition.org
Allison J. Riggs
State Bar No. 40028
allisonriggs@southerncoalition.org
Southern Coalition for Social Justice
1415 Highway 54, Suite 101
Durham, NC 27707
Telephone: 919-323-3380
Facsimile: 919-323-3942

Counsel for Plaintiffs

**TIN FULTON WALKER &
OWEN, PLLC**

By: s/ Adam Stein

Adam Stein (Of Counsel)
N.C. State Bar # 4145
astein@tinfulton.com
Tin Fulton Walker & Owen, PLLC
1526 E. Franklin St., Suite 102
Chapel Hill, NC 27514
Telephone: (919) 240-7089

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date I have electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will provide electronic notification of the same to the following:

Alexander M. Peters
Special Deputy Attorney General
Office of the Attorney General
P.O. Box 629
Raleigh, NC 27602
apeters@ncdoj.gov
kmurphy@ncdoj.gov

Counsel for Defendants

Thomas A. Farr
Phillip J. Strach
Michael D. McKnight
Ogletree, Deakins, Nash, Smoak &
Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, NC 27602
thomas.farr@ogletreedeakins.com
phillip.strach@ogletreedeakins.com
michael.mcknight@ogletreedeakins.com

This the 9th day of September, 2016.

s/ Edwin M. Speas, Jr.
Edwin M. Speas, Jr.