

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
NO. 1:13-CV-00949**

**DAVID HARRIS; CHRISTINE
BOWSER; and SAMUEL LOVE,**

Plaintiffs,

v.

**PATRICK MCCRORY, in his capacity
as Governor of North Carolina; NORTH
CAROLINA STATE BOARD OF
ELECTIONS; and JOSHUA HOWARD,
in his capacity as Chairman of the North
Carolina State Board of Elections,**

Defendants.

**PLAINTIFFS' MOTION TO
ESTABLISH REMEDIAL PLAN
BRIEFING SCHEDULE**

Plaintiffs respectfully move the Court to establish a briefing schedule to determine the validity of the remedial plan enacted by the General Assembly and, in the event the Court determines that plan to be an ineffective remedy, to adopt an appropriate remedial plan. In support of this Motion, Plaintiffs show the Court as follows:

1. On February 5, 2016, this Court issued its Memorandum Opinion striking down North Carolina Congressional Districts 1 and 12 as unconstitutional racial gerrymanders. ECF No. 142. The Court also entered a final judgment in which it enjoined North Carolina “from conducting any elections for the office of U.S. Representative until a new redistricting plan is in place.” ECF No. 143 at 1. Recognizing that residents of Congressional Districts 1 and 12 “are entitled to vote as soon as possible for their representatives under a constitutional apportionment plan,” ECF

No. 142 at 62 (citation omitted), the Court allowed the General Assembly the opportunity to create a constitutional redistricting plan no later than February 19, 2016, *id.* at 62-63. On February 19, the General Assembly enacted a new congressional districting plan. *See* ECF No. 149-1. That same day, the United States Supreme Court denied Defendants' application for a stay pending appeal. (Copy of Order attached as Appendix 1).

2. The map adopted by the General Assembly has been subject to considerable criticism, and Plaintiffs share those deep concerns. Their preliminary analysis of the new plan suggests that it is no more appropriate than the version struck down by the Court. It is critical that the citizens of North Carolina vote in constitutional districts in the upcoming primary, now scheduled for June, and every election thereafter.

3. Accordingly, Plaintiffs request that the Court establish a schedule for expedited judicial review of the remedial plan enacted by the General Assembly. Specifically, Plaintiffs propose the following briefing schedule:

- The parties submit briefing and other materials regarding the validity of the remedial plan no later than February 26;
- The parties submit response briefs no later than March 4;
- This Court hold any hearings it deems necessary on the General Assembly's remedial plan by March 11; and
- The Court render a decision on the validity of the General Assembly's remedial plan and, if necessary, establish a procedure and schedule for a court-adopted plan, no later than March 18.

After enduring two elections under an unconstitutional plan, Plaintiffs—and all other North Carolina voters—are entitled to a full, fair, and efficient remedy. In order to ensure that result, Plaintiffs respectfully request that the Court establish a remedial plan briefing schedule as proposed above.

Respectfully submitted, this the 22nd day of February, 2016.

PERKINS COIE LLP

/s/ John M. Devaney
John M. Devaney
D.C. Bar No. 375465
JDevaney@perkinscoie.com
/s/ Marc E. Elias
Marc E. Elias
D.C. Bar No. 442007
MElias@perkinscoie.com
700 Thirteenth Street, N.W., Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211

/s/ Kevin J. Hamilton
Kevin J. Hamilton
Washington Bar No. 15648
KHamilton@perkinscoie.com
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Telephone: (206) 359-8741
Facsimile: (206) 359-9741

Attorneys for Plaintiffs

POYNER SPRUILL LLP

/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

*Local Rule 83.1
Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

I hereby certify that on this date I served a copy of the foregoing **PLAINTIFFS' MOTION TO ESTABLISH REMEDIAL PLAN BRIEFING SCHEDULE** by electronically filing a copy thereof with the Clerk of the Court using the CM/ECF System, which will send a Notice of Electronic Filing to all parties with an e-mail address of record, who have appeared and consent to electronic service in this action.

This the 22nd day of February, 2016.

/s/ Edwin M. Speas, Jr.

Edwin M. Speas, Jr.