

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

DAVID HARRIS and CHRISTINE
BOWSER,

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 the Chairman of the North
Carolina State Board of Elections,

Defendants,

**SECOND DECLARATION OF
WILLIAM B. STAFFORD IN
SUPPORT OF PLAINTIFFS'
MOTION FOR AWARD OF
ATTORNEYS' FEES AND
LITIGATION EXPENSES**

I, William B. Stafford, being duly sworn according to law, upon my oath, declare and say as follows:

1. I am a partner with the law firm of Perkins Coie LLP (“Perkins Coie”) and one of the attorneys representing the plaintiffs in this case. I am over the age of 21 years and competent to testify herein. I have personal knowledge of the matters stated herein and would so testify if called to do so.

2. As set out in my first declaration, Plaintiffs do not seek recovery for time spent by 22 timekeepers who billed time to this case. Seven of these timekeepers are lawyers. The remainder are paralegals and other support staff. As to the seven attorney timekeepers, Plaintiffs chose to write off—rather than seek recovery for—time spent by attorneys who provided discrete support such as assisting with research for a single motion. Over the three year life of this case, Plaintiffs sometimes relied on the work of

attorneys beyond their core team for reasons of efficiency (such as lower rates to research a discrete issue) or necessity (deadlines in other matters).

3. For purposes of this litigation, Plaintiffs' Perkins Coie counsel utilized an electronic document database. Specifically, Perkins Coie counsel utilized "Relativity," which is a standard document management service that allowed Plaintiffs' counsel to organize, manage and review documents electronically.

4. Plaintiffs utilized an electronic document database because doing so is necessary in modern, complex litigation. The volume of relevant documents in this matter was significant consisting, among other things, of the entire legislative record relating to redistricting after the 2010 Census, as well as North Carolina's redistricting history over the last several decades. For example, Plaintiffs' counsel needed to—and did—review a large number of hearing transcripts, many of which ran hundreds of pages. Using an electronic database allowed Plaintiffs to efficiently organize and review these materials for use in this litigation.

5. Appendix B to Plaintiffs' motion sets out the ten categories of litigation expenses for which Plaintiffs seek recovery. Category E consists of expenses related to Document Collection, Production, and Processing. There are six entries in Category E.

6. The first three entries, as stated explicitly in Appendix B, relate to costs paid to a vendor to convert approximately 20 gigabytes of data from their "native" format to "TIFF" images, which allowed such data to be reviewed efficiently and quickly. If documents are not converted into images, they must be opened and viewed individually using various software programs, which takes considerably longer. These 20 gigabytes of data consisted largely of legislative documents and other public records, which Plaintiffs' counsel reviewed to identify factual support for a motion for preliminary injunction and subsequent arguments on the merits.

7. The last three entries reflect payments made by Plaintiffs' counsel to a third party vendor on October 9 and 23, 2015. As this timing suggests, these expenses related

to the three-day bench trial held between October 13-15, 2015. Specifically, these invoices reflect the costs Plaintiffs' counsel Poyner Spruill incurred to prepare preliminary and final sets of the parties' trial exhibits. Attached as Exhibit A are true and correct copies of these three invoices. As the Court knows, and as the attached invoices reflect, the parties identified hundreds of exhibits running thousands of pages. Poyner Spruill and Perkins Coie charge such expenses to paying clients. Neither of the law firms representing Plaintiffs would ordinarily absorb the costs of preparing thousands of pages of trial exhibits.

8. Category F of Appendix B consists of "Administrative Expenses." This category of expenses consists solely of expenses of the type described by Mr. Speas in his declaration, all of which are incurred directly by Poyner Spruill. *See* ECF No. 165-4 ¶ 7. There is no duplication between this category of expenses and Category E, which reflect amounts charged by third party vendors. Nor, to the best of my knowledge, is there duplication between Category A (Photocopying and Printing) and Category F. The photocopying and printing expenses set out in Category A were either (a) incurred by Perkins Coie (Appendix B, rows 1-14, 17) or (b) reflect large printing jobs that Poyner Spruill outsourced to a third party vendor (rows 15-16, 18-22).

9. In the course of preparing their reply in support of their fee petition, Plaintiffs did identify one instance of inadvertent duplication. The same \$1,113.43 payment made by Poyner Spruill to vendor Nova Office Strategies, Inc. appears in Category A, row 20 and Category E, row 75. Eliminating the duplicative entry results in Plaintiffs seeking a total of \$149,527.94 in reasonable litigation expenses.

10. As set out in my first declaration, in conjunction with their fee petition, Plaintiffs submitted detailed time entries reflecting work billed by Plaintiffs' counsel through March 4, 2016. Plaintiffs submitted their fee petition in early April 2016. Plaintiffs submit, as Appendix A to their Reply in Support of Their Motion for Award of Attorneys' Fees and Expenses, detailed time entries reflecting work done by Plaintiffs'

counsel from March 5, 2016, through the date of their reply brief. This work consists of Plaintiffs' preparation of their reply brief regarding the remedial plan adopted by the General Assembly, their preparation of their initial fee petition and reply brief, and work related to Defendants' request to defer and stay consideration of Plaintiffs' fee petition. Pending resolution of the appeals pending in the United States Supreme Court, Plaintiffs do not at this time seek recovery for work done on appeal.

11. The detailed time entries submitted as Appendix A were compiled from contemporaneously created time records maintained by Plaintiffs' Counsel. As reflected in Appendix A, Plaintiffs seek recovery of an additional \$76,919 in attorneys' fees incurred in preparing Plaintiffs' briefing in support of their request for attorneys' fees, reasonable litigation expenses, and costs, incurred over the past four months.

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

EXECUTED at Seattle, Washington, on July 11, 2016.

/s/ William B. Stafford
WILLIAM B. STAFFORD

CERTIFICATE OF SERVICE

On July 11, 2016, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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*Co-counsel for Defendants North
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Joshua Howard, in his capacity as
Chairman of the North Carolina State
Board of Elections*

/s/ Edwin M. Speas, Jr.