

EXHIBIT A

(“September 27-28, 2016 Emails”)

RE: New Congressional Redistricting Lawsuit



Peters, Alec <apeters@ncdoj.gov>

Wed 9/28, 8:38 AM

Anita Earls; Alesha Brown; Bernier, James <jbernier@ncdoj.gov> ✕

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Inbox

You forwarded this message on 9/28/2016 9:07 AM

Anita, this morning I received authorization to accept service for Speaker Moore. So, I can accept for the three remaining defendants who haven't been served.

Thanks.

— Alec

From: Anita Earls [mailto:AnitaEarls@southerncoalition.org]
Sent: Tuesday, September 27, 2016 10:05 PM
To: Alesha Brown; Peters, Alec
Cc: Bernier, James
Subject: RE: New Congressional Redistricting Lawsuit

Alec,
Also, just to confirm, the process server left the papers with Representative Lewis' wife. Alesha also instructed him to hold off on attempting service on any other legislative defendants.
Thank you,
Anita

From: Alesha Brown
Sent: Tuesday, September 27, 2016 10:01 PM
To: Anita Earls; Peters, Alec
Cc: Bernier, James
Subject: Re: New Congressional Redistricting Lawsuit

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I just spoke with our process server and he indicated that Rep. Lewis was served tonight as well.

Alesha

From: Anita Earls
Sent: Tuesday, September 27, 2016 9:56:17 PM
To: Peters, Alec
Cc: Bernier, James; Alesha Brown
Subject: RE: New Congressional Redistricting Lawsuit

Dear Alec,

Thank you for this clarification. We are again constrained by the Federal Rules of Civil Procedure which do not authorize us to serve a party by leaving the documents at their offices or place of business. Given your efforts to be authorized to accept personal service, rather than simply to waive service, I will instruct our process server to not serve the remaining three defendants at home and will await further communication from you regarding Representative Moore and Representative Lewis. It may be that a second legislative defendant was also served this evening, before I received this email. I just don't know for certain. I will call and email our process server now to relay this information.

We did not know how long it might take to achieve personal service and, as I said before, we considered it important to move forward as expeditiously as possible to preserve our clients' rights. I did not realize you were seeking authorization for personal service, had you asked for a period of time to do that, I certainly would have accommodated that request. We meant no disrespect to you or your clients.

Sincerely,
Anita


From: Peters, Alec [<mailto:apeters@ncdoj.gov>]
Sent: Tuesday, September 27, 2016 9:45 PM
To: Anita Earls
Cc: Bernier, James; Alesha Brown
Subject: Re: New Congressional Redistricting Lawsuit

Anita,

Late this afternoon, I received authorization to accept service on behalf of Sen. Berger and Sen. Rucho. I'm awaiting word on Rep. Moore and Rep. Lewis. Unfortunately, I was tied up late this afternoon and earlier this evening and wasn't able to get word to you, and I've learned that Sen. Berger was served at home about a half hour ago. Given that he and the other legislators were sued in their official capacity, I must pass along our feeling that it is unnecessary and inappropriate to serve them at home rather than at their offices.

I understand your desire not to delay matters in a way that you believe is unnecessary or not in your clients' best interest, but I would point out that this lawsuit, which challenges districts enacted seven months ago, was filed last week. You did not contact me about the lawsuit until yesterday, and your message gave no indication that you intended to serve immediately. As soon as I got your message, I set about inquiring from my clients whether I had authorization to waive service, and I contacted you first thing this morning, only to learn that you had already sent a process server to our office and to the State Board of Elections yesterday, and that a process server was at the General Assembly this morning. After your email below, I again set about up find out if I had authority to accept service on behalf of the remaining defendants. I do not think it was unreasonable for me to expect that since you offered the option of me accepting service on their behalf, I would have an opportunity of at least 24 hours to arrange that.

I would ask that you not serve any of the remaining three defendants at home. As I said above, I'm authorized to

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Thank you, and please let me know if you have any questions.

— Alec

On Sep 27, 2016, at 11:27 AM, Anita Earls <AnitaEarls@southerncoalition.org> wrote:

Dear Alec,

Thank you for your email. We are obviously concerned about moving as quickly as possible so that this case, which has been assigned to the same Judge as the Common Cause, et al. v. Rucho lawsuit filed earlier, remains on the same track time-wise and does not occasion any delay in the litigation overall. It

is my understanding that there is an October 31st deadline for answering the amended complaint in that case. Given the kinds of arguments we have seen in other cases regarding the time needed to implement a remedy in redistricting cases, we feel under the obligation to take every step possible to expedite this litigation and we will continue to do so to the best of our abilities. I realize the court may grant you an extension of time to answer the complaint, but that is beyond our control. At this point, we can seek to expedite the case by obtaining personal service and we have no alternative but to pursue that course. I do not read Rule 4(d) to require plaintiffs to request a waiver of service of a summons and complaint.

I assure you we would prefer not to have to obtain personal service of the individual legislators, but we have no choice unless they authorize you or other counsel to accept personal service on their behalf. Please let me know if you have any questions.

Thank you,
Anita






Anita S. Earls
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From: Peters, Alec [<mailto:apeters@ncdoj.gov>]
Sent: Tuesday, September 27, 2016 10:31 AM
To: Anita Earls
Cc: Bernier, James
Subject: New Congressional Redistricting Lawsuit

Anita,

I have been told that a process server was at the legislature this morning attempting to serve one or more of the defendants in the new LWV lawsuit, so I wanted to confirm in writing what stated in the voicemail I left earlier this morning. I am authorized to waive service for all of the defendants pursuant to Rule 4(d). If you'll forward the waiver papers to me, I'll be glad to sign and return them.

If plaintiffs insist on attempting to serve the defendants personally, then we will move for an extension of time to answer or otherwise respond, and we will note in that motion that the defendants promptly

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X

Thanks, and please let me know if you have any questions.

Best regards,
Alec

<image001.jpg>




Alexander McC. Peters
Senior Deputy Attorney General

10/18/2016

RE: New Congressional Redistricting Lawsuit

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