AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Georgia

GA St Conf of NAACP, et al. *Plaintiff* v. State of Georgia, et al. *Defendant*	))))))	Civil Action No. 1:21-CV-5338-ELB-SCJ-SDG

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Senator John Kennedy (421-D State Capitol, Atlanta GA, 30334)

(Name of person to whom this subpoena is directed)

☑ *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: 1387 Inverson St., Suite 100, Atlanta, GA 30307.	Date and Time: 06/13/2022 9:30 am

☐ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 05/27/2022

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk *Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs GA State Conf. of the NAACP, et al., who issues or requests this subpoena, are:

Jacob Canter, Crowell & Moring LLP, 3 Embarcadero Ctr, 26th Fl., San Francisco CA 94111; jcanter@crowell.com

415-365-7210

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

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PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____ .

❒ I served the subpoena by delivering a copy to the named person as follows: _____

_____

_____ on *(date)* _____ ; or

❒ I returned the subpoena unexecuted because: _____

_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of $ _____ .

My fees are $ _____ for travel and $ _____ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
Server's signature

_____
Printed name and title

_____
Server's address

Additional information regarding attempted service, etc.:

Exhibit K

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) ***For a Trial, Hearing, or Deposition.*** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:
(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
(i) is a party or a party's officer; or
(ii) is commanded to attend a trial and would not incur substantial expense.

(2) ***For Other Discovery.*** A subpoena may command:
(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) ***Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) ***Command to Produce Materials or Permit Inspection.***
(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.
(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:
(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) ***Quashing or Modifying a Subpoena.***
(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:
(i) fails to allow a reasonable time to comply;
(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
(iv) subjects a person to undue burden.
(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:
(i) disclosing a trade secret or other confidential research, development, or commercial information; or
(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.
(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:
(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) ***Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:
(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.
(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) ***Claiming Privilege or Protection.***
(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
(i) expressly make the claim; and
(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.
The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

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ATTACHMENT A

DEFINITIONS

Unless otherwise defined, all words and phrases shall be accorded their usual meaning and shall be interpreted in their common, ordinary sense. As used in these Requests, the words below shall be defined as follows:

1. The term "COMMUNICATION(S)" should be interpreted in its broadest sense to include without limitation all oral or written communications, including any writings, texts, emails, voicemails or other electronically stored information as that term is defined by Federal Rule of Civil Procedure 34(a).

2. The term "DOCUMENT(S)" should be interpreted in its broadest sense to include without limitation any written, printed, typed, recorded, or graphic matter, however produced, reproduced, or stored, including the originals and all nonidentical copies, whether different from the originals by reason of any notations made on such copies or otherwise, or other electronically stored information as defined by the Federal Rules of Civil Procedure.

3. The term "ALTERNATIVE" means and refers to any maps, other than the corresponding CONGRESSIONAL MAP, HOUSE MAP, or SENATE MAP considered by you, including drafts and different options for each corresponding map.

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4. The term "CONGRESSIONAL MAP" means and refers to the Georgia Congressional map passed by the Georgia General Assembly and signed into law by Governor Kemp, with bill number SB 2EX.

5. The term "SENATE MAP" means and refers to the Georgia State Senate map passed by the Georgia General Assembly and signed into law by Governor Kemp, with bill number SB 1EX.

6. The relevant time period for each of the requests is from November 1, 2016, to the present unless otherwise noted.

DOCUMENTS TO BE PRODUCED

REQUEST FOR PRODUCTION NO. 1:

DOCUMENTS sufficient to show any ALTERNATIVES to the CONGRESSIONAL MAP.

REQUEST FOR PRODUCTION NO. 2:

All DOCUMENTS and COMMUNICATIONS that relate to the CONGRESSIONAL MAP or any ALTERNATIVES, including, but not limited to, any notes, requests, opinions, thoughts, or views about the maps, the lines drawn, or the district shapes, as well as any agreements with any person or entity.

REQUEST FOR PRODUCTION NO. 3:

All DOCUMENTS and COMMUNICATIONS that relate to any factor

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considered when drawing the CONGRESSIONAL MAP or any ALTERNATIVES, including, but not limited to, the use of race, the use of political or party information, traditional redistricting principles, or compliance with the U.S. Constitution or the Voting Rights Act of 1965.

REQUEST FOR PRODUCTION NO. 4:

All data considered or relied on to draw the CONGRESSIONAL MAP or any ALTERNATIVES, including, but not limited to, any statistical or mathematical analysis, spreadsheets or diagrams, or census results.

REQUEST FOR PRODUCTION NO. 5:

All DOCUMENTS and COMMUNICATIONS that relate to or reflect money spent or received relating to the CONGRESSIONAL MAP, including, but not limited to money spent or received to create the map directly, or money spent on any person that directly or indirectly helped create the map.

REQUEST FOR PRODUCTION NO. 6:

DOCUMENTS sufficient to show any ALTERNATIVES to the SENATE MAP.

REQUEST FOR PRODUCTION NO. 7:

All DOCUMENTS and COMMUNICATIONS that relate to the SENATE MAP or any ALTERNATIVES, including, but not limited to, any notes, requests,

opinions, thoughts, or views about the maps, the lines drawn, or the district shapes, as well as any agreements with any person or entity.

REQUEST FOR PRODUCTION NO. 8:

All DOCUMENTS and COMMUNICATIONS that relate to any factor considered when drawing the SENATE MAP or any ALTERNATIVES, including, but not limited to, the use of race, the use of political or party information, traditional redistricting principles, or compliance with the U.S. Constitution or the Voting Rights Act of 1965.

REQUEST FOR PRODUCTION NO. 9:

All data considered or relied on to draw the SENATE MAP or any ALTERNATIVES, including, but not limited to, any statistical or mathematical analysis, spreadsheets or diagrams, or census results.

REQUEST FOR PRODUCTION NO. 10:

All DOCUMENTS and COMMUNICATIONS that relate to or reflect money spent or received relating to the SENATE MAP, including, but not limited to money spent or received to create the map directly, or money spent on any person that directly or indirectly helped create the map.

REQUEST FOR PRODUCTION NO. 11:

All DOCUMENTS and COMMUNICATIONS shared or sent between you

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and the Legislative and Congressional Reapportionment Office from November 1, 2016, to the present.

REQUEST FOR PRODUCTION NO. 12:

All DOCUMENTS and COMMUNICATIONS relating to every Town Hall on redistricting in Georgia convened between January 1, 2021, and November 3, 2021.

REQUEST FOR PRODUCTION NO. 13:

All DOCUMENTS and COMMUNICATIONS relating to the November 3, 2021, special redistricting session of the Georgia General Assembly, including, but not limited to any public comments.

REQUEST FOR PRODUCTION NO. 14:

All DOCUMENTS and COMMUNICATIONS shared or sent between you and the Senate Reapportionment and Redistricting Committee.

REQUEST FOR PRODUCTION NO. 15:

All DOCUMENTS and COMMUNICATIONS shared or sent between you and the House Legislative and Congressional Reapportionment Committee.

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