Subject: Re: Georgia State Conference of the NAACP v State of Georgia, 21 Civ. 5338-ELB-SCJ-SDG |
Date: Tuesday, August 23, 2022 at 5:55:29 PM Eastern Daylight Time
From: Patrick Jaugstetter
To: Canter, Jacob
CC: Lisa Fallon, Alex Khoury, Shawn Marie Story, Karen Pachuta, GA-Redistricting, Jack Genberg, Poy Winichakul, Matletha Bennette, Steiner, Neil, West, Hartley, kurt@kastorflaw.com
Attachments: GA Redistricting - Categories of Questions (8.19.22)[22] copy.pdf

Jacob:

I am in receipt of your email enclosing proposed topics for inquiry at the depositions of the proposed deposition witnesses. For the sake of discussion, and in the interest of working toward a reasonable resolution regarding these depositions, we would propose the following:

Representative Rich, Senator Kennedy, and Gina Wright will waive legislative privilege, sit for deposition, and answer questions falling into the limited categories as shown on the attached (for ease of reference, I have highlighted in red those areas of inquiry to which the witnesses will **not** waive legislative privilege). In addition and in exchange, we request that the Plaintiffs' refrain from asking (and if asked, the witness will object and refuse to answer) any questions seeking to solicit from them any of the following:

(i) testimony regarding the nature and content of any communications by, among, or between members of the Georgia General Assembly as to any members' motive or intent in drawing, sponsoring, presenting, supporting or opposing any proposed map;
(ii) testimony regarding the nature and content of any communications by, among, or between members of the Georgia General Assembly and staff of the General Assembly, including employees of the Office of Legislative and Congressional Reapportionment, as to any members' motive or intent in drawing, sponsoring, presenting, supporting or opposing any proposed map;
(iii) testimony regarding the nature and content of any communications by, among, or between members of the Georgia General Assembly and any constituent as to any members' motive or intent in drawing, sponsoring, presenting, supporting or opposing any proposed map;
(iv) testimony regarding the subjective motivation or intent of any member in drawing, sponsoring, presenting, supporting or opposing any proposed map;
(v) testimony regarding any legislation introduced, presented to, or considered by the Georgia General Assembly other than the following: HB 189; HR 55; SB 186; SR 20; SB 1 EX/AP, HB 1EX LC 47 1163S/AP, and SB 2 EX/AP.

Of course, each of the witnesses will retain the right to assert such other objections as may be appropriate and necessary throughout any deposition – those objections would be resolved in the normal course. If this is acceptable to you, then I would propose that we draft and submit to the Court a Consent Protective Order reflecting the areas of questioning and the limitations.

If you disagree with any portion of our proposal, please let me know. Some of our objections may be able to be resolved by further discussion as to the meaning and scope of the categories of questions you offered.

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From: Canter, Jacob <JCanter@crowell.com>
Date: Friday, August 19, 2022 at 3:30 PM
To: Patrick Jaugstetter <patrickj@jarrard-davis.com>
Cc: Lisa Fallon <lfallon@jarrard-davis.com>, Alex Khoury <akhoury@sgrlaw.com>, Shawn Marie Story <shawn.story@legis.ga.gov>, Karen Pachuta <kpachuta@jarrard-davis.com>, GA-Redistricting <GA_Redistricting@crowell.com>, Jack Genberg <Jack.Genberg@splcenter.org>, Poy Winichakul <poy.Winichakul@splcenter.org>, Matletha Bennette <matletha.bennette@splcenter.org>, Steiner, Neil <neil.steiner@dechert.com>, West, Hartley <Hartley.West@dechert.com>, kurt@kastorflaw.com <kurt@kastorflaw.com>
Subject: RE: Georgia State Conference of the NAACP v State of Georgia, 21 Civ. 5338-ELB-SCJ-SDG |

Hi Patrick,

Please see the attached. I hope you have a nice weekend. Kind regards,

Jacob Canter
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From: Patrick Jaugstetter <patrickj@jarrard-davis.com>
Sent: Tuesday, August 16, 2022 2:07 PM
To: Canter, Jacob <JCanter@crowell.com>
Cc: Lisa Fallon <lfallon@jarrard-davis.com>; Alex Khoury <akhoury@sgrlaw.com>; Shawn Marie Story <shawn.story@legis.ga.gov>; Karen Pachuta <kpachuta@jarrard-davis.com>
Subject: Georgia State Conference of the NAACP v State of Georgia, 21 Civ. 5338-ELB-SCJ-SDG |

External Email

Jacob:

We are anticipating another rolling production of documents to you by the end of this week. We have identified these additional records as responsive and non-privileged and expect them to be produced no later

than the end of the day Friday. Meanwhile, I wanted to check on the status of your list of proposed topics for each of the proposed deposition witnesses - you will recall that, at our conference last week, the Judge suggested, and you agreed to provide such list. We are hopeful that your list of proposed topics will allow us to narrow our dispute regarding legislative privilege.

Patrick D. Jaugstetter
Partner

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Categories of questions on a particular map or maps[1]

1.	Questions related to when a map was drawn.
2.	Questions related to who drew or helped draw a map ("map drawers").
3.	Questions related to when map drawers communicated about a map.
4.	Questions related to how map drawers communicated about a map.
5.	Questions related to what map drawers discussed about a map.
6.	Questions related to how map drawers were trained to draw the maps.
7.	Questions related to the meaning of the contents of a map.
8.	Questions related to materials considered while training to draw the maps.
9.	Questions related to who trained the map drawers.
10.	Questions related to guidelines or rules related to the drawing of maps.
11.	Questions related to factual information relied on to help draw a map.
12.	Questions related to technology used to help draw a map.
13.	Questions related to the prioritization of redistricting criteria.
14.	Questions related to placing a specific geographic location (i.e., a street, census block, etc.) into a particular district of a map.
15.	Questions related to the racial composition of districts that can be discerned or derived from a map.
16.	Questions related to the impact on communities of color that can be discerned or derived from a map.
17.	Questions related to the factual analysis of a map.
18.	Questions related to the analysis of a map's impact on particular persons or communities in Georgia.
19.	Questions related to the analysis of a map's impact on future political actions in Georgia.
20.	Questions related to the analysis of a map's impact on future economic actions in Georgia.
21.	Questions related to discarded draft maps.
22.	Questions related to when a map was shared with non-map drawers.[2]
23.	Questions related to what components of a map were shared and not shared with non-map drawers.

[1] For simplicity's sake, we refer to "map" in the list. This should be understood to refer to any draft maps and also the final Congressional, House, and Senate maps.
[2] There are at least four different categories of non-map drawers: (1) Georgia elected officials; (2) persons who are not elected officials but who work for an elected official or the General Assembly; (3) persons who are neither elected officials nor for the General Assembly but who have been brought on to participate in the map drawing process; (4) all other persons who do not fit into categories 1-3.

24.	Questions related to how a map (or its components) was shared with non-map drawers.
25.	Questions related to when and how comments on a map were received from non-map drawers.
26.	Questions related to reviewing and considering comments on a map from non-map drawers.
27.	Questions related to incorporating comments on a map from non-map drawers into a later version.
28.	Questions related to requests from non-map drawers regarding a map.
29.	Questions related to factual similarities and differences between versions of a map.
30.	Questions related to deciding that no further map versions were needed.
31.	Questions related to voting on the proposed maps.
32.	Questions related to the impact of the maps on future elections.

Categories of questions on spreadsheets or data related to maps[3]

33.	Questions related to when spreadsheets or data related to maps were produced or created.
34.	Questions related to what contents were determined to be included in the spreadsheets or data related to maps.
35.	Questions related to who produced or created spreadsheets or data related to maps ("data producers").
36.	Questions related to the training of data producers.
37.	Questions related to guidelines or rules related to the production or creation of data or spreadsheets related to maps.
38.	Questions related to when data producers communicated about spreadsheets or data related to maps.
39.	Questions related to how data producers communicated about spreadsheets or data related to maps.
40.	Questions related to what data producers discussed about spreadsheets or data related to maps.
41.	Questions related to the racial composition of districts that can be discerned or derived from data or spreadsheets related to maps.
42.	Questions related to the impact on communities of color that can be discerned or derived from data or spreadsheets related to maps.
43.	Questions related to the analysis of data or spreadsheets related to maps.

[3] The phrase "spreadsheets or data" should be construed broadly to mean any factual analyses or the maps, whether in numerical form (i.e., an excel spreadsheet) or written form (i.e., via an email or described narratively).

44.	Questions related to when data producers shared data or spreadsheets related to maps with non-data producers.[4]
45.	Questions related to what particular data or spreadsheets related to maps were shared with non-data producers.
46.	Questions related to how data or spreadsheets related to maps were shared with non-data producers.
47.	Questions related to when and how comments on data or spreadsheets related to maps were received from non-data producers.
48.	Questions related to reviewing and considering comments on data or spreadsheets related to maps from non-data producers.
49.	Questions related to incorporating comments on data or spreadsheets related to maps into later versions of maps.
50.	Questions related to the impact of data or spreadsheets related to the maps on future elections.

Categories of questions related to the redistricting process

51.	Questions related to selecting map drawers.
52.	Questions related to selecting data producers.
53.	Questions related to where to draw the lines of the maps before map drawing began.
54.	Questions related to compliance with State and Federal laws for the maps before map drawing began.
55.	Questions related to priorities for the maps before map drawing began.
56.	Questions related to concerns about the maps before map drawing began.
57.	Questions related to preparations before map drawing began.
58.	Questions related to requests about the maps before map drawing began.
59.	Questions related to discussions about the map drawing process with map drawers, data producers, non-map drawers, or non-data producers during the map drawing process.
60.	Questions related to instructions or guidelines provided by non-map drawers to map drawers.
61.	Questions related to the impact of the map drawing on communities of color.
62.	Questions related to the impact of the map drawing on political activities in Georgia.

[4] There are also four categories of non-data producers: (1) elected officials; (2) those who are not elected but work for the General Assembly; (3) those who were retained and/or brought on solely for the map drawing process; (4) all others.

63.	Questions related to the impact of the map drawing on economic activities in Georgia.
64.	Questions related to public comments and criticism regarding map drawing.
65.	Questions related to town halls regarding map drawing.
66.	Questions related to committee meetings regarding map drawing.
67.	Questions related to Legislative and Congressional Reapportionment Office, its staff, and its activities.
68.	Questions related to the redistricting process and the 2020 election.
69.	Questions related to the redistricting process and future elections.

Categories of questions related to race, economics, and politics in Georgia

70.	Questions related to the 2020 election.
71.	Questions related to future elections.
72.	Questions related to the political power of communities of color in Georgia.
73.	Questions related to the political power of the white community in Georgia.
74.	Questions related to the history of discrimination in Georgia, and that history's impact on communities of color in Georgia today.
75.	Questions related to population growth of communities of color in Georgia.
76.	Questions related to population decline of the white community in Georgia.
77.	Questions related to economic activities for communities of color in Georgia.
78.	Questions related to economic activities for the white community in Georgia.