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S.C. SUPREME COURT

Exhibit A

Excerpts of February 15, 2022 Telephonic Status
Conference in
S.C. State Conf. of NAACP, et al. v. Alexander, et al.,
No. 3:21-cv-03302-MGL-TJH-RMG

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION
CASE NO. 3:21-CV-03302-JMC-TJH-RMG

THE SOUTH CAROLINA STATE CONFERENCE FEBRUARY 15, 2022
OF THE NAACP, et al., 1:01 P.M.
Columbia, SC
Plaintiffs,

VS.

THOMAS C. ALEXANDER, in his
official capacity as President
of the Senate, et al.,

Defendants. PAGES 1 THROUGH 28

TELEPHONIC STATUS CONFERENCE
BEFORE THE HONORABLE J. MICHELLE CHILDS
THE HONORABLE RICHARD M. GERGEL
UNITED STATES DISTRICT JUDGES
THE HONORABLE TOBY J. HEYTENS
UNITED STATES APPELLATE JUDGE

APPEARANCES (All Parties Appear Telephonically):

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(Appearances continue on next page)

1 the congressional litigation and happy to answer questions
2 about that.

3 HONORABLE RICHARD M. GERGEL: Thank you, Mr. Gore. In
4 August -- I will tell you, for some practical reasons July
5 might work better than August for the congressional, and are
6 there hard dates in July that you all would have a conflict if
7 we're going to try the congressional?

8 MR. GORE: I know I do have another trial in July,
9 Your Honor, for the first few weeks of July, and as Ms. Aden
10 laid out, we have not had an opportunity yet to compare our
11 schedule with plaintiffs' counsel's schedule and figure out
12 what dates may or may not be available in July or really at any
13 other time, so we would --

14 HONORABLE RICHARD M. GERGEL: Well, I think maybe you
15 all ought to confer on that, maybe we're getting a little ahead
16 on our skis here, and I think you all might want to come back
17 to us. But I do think you all need to go ahead, exchange your
18 discovery, and get that moving. There will be some overlap,
19 but there will also be, you know, things that are distinct.
20 And, you know, I don't want to wait around until right before
21 trial to be dealing with this congressional -- with the
22 congressional issues.

23 MS. CRUM: Your Honor?

24 HONORABLE RICHARD M. GERGEL: Yes.

25 MS. CRUM: This is Liz Crum on behalf of the Election

1 defendants. I think Ms. Aden said that we would be necessary
2 for the congressional. I think we're also necessary for the
3 House districting.

4 HONORABLE RICHARD M. GERGEL: Okay.

5 MS. CRUM: And just from a practical standpoint,
6 filing opens March the 15th and the primaries under current law
7 ought to be conducted June the 16th -- I mean, I'm sorry, June
8 the 14th. And the Election Commission needs to know what --
9 what plan we're supposed to use to put together all of the
10 various ballots.

11 HONORABLE RICHARD M. GERGEL: Yeah, Ms. Crum, that's a
12 fair question. You know, right now there's a legislatively
13 adopted plan and there is no stay on that plan. We were
14 scheduling a trial for February 28th. Whether that would
15 impact that schedule we didn't know because, you know, we
16 didn't know whether there were any violations or not. But if
17 you move the case -- if you move the House trial to May and the
18 congressional to August, for all practical purposes, you're not
19 going to be using anything but the legislatively adopted plan
20 in 2022. I mean, I just think practically, by moving the
21 trial, I think your -- the plaintiffs are electing to pass.
22 Maybe they have a different view than that, but, you know, you
23 can only move the primaries so much. The mechanics, Ms. Crum,
24 you know this far better than I do, but there's a whole
25 sequence of notice and filing dates and absentee ballot dates

1 and all of that, and there's got to be a primary before the
2 general election. As a practical matter, I don't think you can
3 move the primary later than August. Certainly the prior
4 reapportionment cases going back into the '70s were moved no
5 later than August.

6 So Ms. Aden, what's your thought about that? I mean,
7 I think Ms. Crum raises a very legitimate question.

8 MS. ADEN: Yes, Your Honor. We understand, the
9 plaintiffs understand the ramifications of moving the House
10 trial to May potentially and having any trial on the
11 congressional map until late summer-fall.

12 With respect to the House map, you know, absent a
13 settlement where districts are changed, and that might
14 necessitate the change in qualifying, we are not seeking to at
15 this time move the qualifying dates with respect to the House
16 map and we also have no plans to do that for -- with respect to
17 the congressional map at this time.

18 HONORABLE RICHARD M. GERGEL: So you recognize that by
19 electing to pause for two weeks, I mean, I'm not sure --

20 MS. ADEN: Yes.

21 HONORABLE RICHARD M. GERGEL: -- under *Merrill* we
22 could ever get it done in time, and I'm sure that's a
23 calculation that you've considered, but, you know, we don't --
24 you don't delay a primary unless you find a constitutional
25 violation, and you don't find a constitutional violation

1 without a trial. So, I mean, when you push the trial out,
2 you're just basically conceding that this plan is going to be
3 utilized in 2022. You understand that.

4 MS. ADEN: Your Honor, yes. This is Leah Aden again.
5 So absent a settlement where the parties agree that those dates
6 would move, we do understand, in light of where we are with
7 this -- the schedule for the House map and also where the
8 jurisprudence is, that we would otherwise not be moving dates
9 for the House qualifying and primary this year.

10 HONORABLE RICHARD M. GERGEL: Okay. Okay. The -- I
11 think what we -- so we have until March 1 this period, and I
12 think what we should say is on March 1 the parties should
13 provide, number one, a joint report on status, and if
14 necessary -- if the case is not proposing a resolution, a
15 proposed scheduling order for the House on March 1. And you
16 will also provide me at that time -- well, I think we
17 already -- we may go ahead at that point and set a date certain
18 trial date. We may actually set it before this after the
19 judges consult just so everybody knows when that is, that
20 two-week period will be.

21 And then, Ms. Aden, what do you propose in terms of
22 for the congressional? When would be reasonable for a status
23 report from you, Mr. Gore, on a plan and a proposed scheduling
24 order for the congressional?

25 MS. ADEN: I'm going to throw out this upcoming Monday

1 UNITED STATES OF AMERICA
2 DISTRICT OF SOUTH CAROLINA

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) ss:
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4 C E R T I F I C A T E

5 I, Carly L. Horenkamp, Certified Shorthand
6 Reporter in and for the United States District Court for the
7 District of South Carolina, do hereby certify that I was
8 present at and reported in machine shorthand the proceedings
9 had the 15th day of February, 2022, in the above-mentioned
10 court; and that the foregoing transcript is a true, correct,
11 and complete transcript of my stenographic notes.

12 I further certify that this transcript contains
13 pages 1 - 28.

14 IN WITNESS WHEREOF, I have hereunto set my hand at
15 Columbia, South Carolina, this 18th day of February, 2022.

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17
18 /s/ Carly Horenkamp
19 Carly L. Horenkamp, RDR, CRR, CRC
20 Certified Shorthand Reporter
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