

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA STATE CONFERENCE)
OF THE NAACP, et al.,)

Plaintiffs,)

v.)

1:13CV658

PATRICK LLOYD MCCRORY, in his official)
capacity as Governor of North Carolina, et al.,)

Defendants.)
_____)

LEAGUE OF WOMEN VOTERS OF)
NORTH CAROLINA, et al.,)

Plaintiffs,)

v.)

1:13CV660

THE STATE OF NORTH CAROLINA, et al.,)

Defendants.)
_____)

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

1:13CV861

THE STATE OF NORTH CAROLINA, et al.,)

Defendants.)
_____)

ORDER

These cases came before the Court on December 12, 2014, for a telephonic conference to address the status of outstanding discovery. Prior to that hearing, the Parties filed a Joint

Status Report [Doc. #218] which outlined the following four categories as presenting some disagreement among the Parties and requiring the attention of the Court: (1) North Carolina Division of Motor Vehicles (“DMV”) data for expert analysis; (2) supplemental productions from the State Board of Elections, the Department of Transportation, and the North Carolina Governor’s Office; (3) production of legislative documents pursuant to the Court’s November 20, 2014 Order; and (4) a Department of Transportation Rule 30(b)(6) deposition. During the hearing, the Parties addressed each of these categories in turn.

As to the DMV data for expert analysis, Defendants represented that, on the date of the hearing, Friday, December 12, 2014, it would send, by way of Federal Express, two encrypted hard drives to all Plaintiffs containing the data Plaintiffs seek. Given this representation, the Parties agreed that no dispute remains as to this item.

As to the supplemental productions from the State Board of Elections, the Department of Transportation, and the North Carolina Governor’s Office, Plaintiffs requested supplementation of Defendants’ prior production, and counsel for Defendants represented that searches for documents supplementing that production are currently underway. Counsel for Defendants expected to be in possession of the State Board of Elections documents by December 15, 2014, and of the documents from the Department of Transportation and the Governor’s Office by December 22, 2014. Defendants requested until January 9, 2015 to produce that information to Plaintiffs. Plaintiffs agreed to that time frame.¹

¹ The Parties will address the logistics of the production amongst themselves, including whether the production will be made under the structure adopted for earlier productions in this case. If Court intervention is necessary on this issue, the parties should file an appropriate motion and status report by January 13, 2014.

As to the production of legislative documents pursuant to the Court's November 20, 2014 Order, the Court notes that objections to that Order are pending. Defendants have partially objected, and with respect to the matters not subject to their objection, produced a privilege log prior to the hearing. In addition, at the hearing, counsel for Defendants represented that they will be in a position to produce communications between agencies and legislators by December 15, 2014. Defendants contend that all documents not accounted for in their expected production are within the scope of their objection. Therefore, Defendants will make their anticipated production on December 15, 2014, and any issues regarding the schedule for production of any remaining documents will be addressed after the pending objections have been resolved.

Finally, as to the Department of Transportation Rule 30(b)(6) deposition, Plaintiffs sought to identify specific witnesses and determine their availability, and Defendants provided the identities but objected to Plaintiffs' proposal to begin the deposition in December but hold it open until after supplemental production was complete. Plaintiffs noted that they had technical questions regarding DMV databases that needed to be addressed as soon as possible, but also wished to have the ability to depose Defendants' identified witnesses after the expected supplemental production of documents. To address these concerns, the Parties agreed that Defendants would arrange for an informal discussion between Plaintiffs and an individual able to address Plaintiffs' technical questions, to take place as soon as possible, and Plaintiffs would conduct their Rule 30(b)(6) deposition of the Department of Transportation

in January after receipt of the supplemental production. That Department of Transportation Rule 30(b)(6) deposition will take place on or before Friday, January 23, 2015.

IT IS THEREFORE ORDERED that the Court adopts the discovery resolution and scheduling as addressed during the December 12, 2014, hearing and as set out above.

This, the 15th day of December, 2014.

/s/ Joi Elizabeth Peake
United States Magistrate Judge