

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

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

Plaintiffs,

v.

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

Defendants.

**JOINT REPORT REGARDING
TRIAL PRESENTATION
AND RECORD**

Civil Action No. 1:13-cv-658

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

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, *et
al.*,

Defendants.

Civil Action No. 1:13-cv-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF NORTH CAROLINA, *et
al.*,

Defendants.

Civil Action No. 1:13-cv-861

JOINT REPORT REGARDING TRIAL PRESENTATION AND RECORD

Pursuant to the Court's January 7, 2016 Order, the Parties have consulted regarding several issues and report the following:

1. **Production of Training and Educational Materials.** Defendants have agreed to provide plaintiffs with new training and education materials by January 11, 2016.
2. **Supplementing the Record Following Trial.** The Parties could not agree on a joint stipulation to hold the record open for supplemental evidence.

The NAACP Plaintiffs believe that if the Court denies the pending Motion for Preliminary Injunction, the trial record should be held open until April 15, 2016 to allow for evidence to be submitted regarding the conduct of the March 2016 Primary Election. Otherwise, the NAACP Plaintiffs believe that the record should at least be held open until February 29, 2016 to allow for additional testimony or exhibits concerning (i) election official and/or poll worker training and (ii) voter education materials and ads, which may occur after the trial commencing on January 25 concludes. As the NAACP Plaintiffs stated in the status conference, in light of the late date of the Defendants' proposed training sessions, including those scheduled after the trial, the NAACP Plaintiffs intend to interview and identify witnesses who could not previously have been identified and would seek to do so through and until February 29. The NAACP Plaintiffs thus propose that the Parties submit supplemental testimony in the form of declarations and supplemental exhibits by February 29. At the discretion of the Court, a supplemental

evidentiary hearing may be scheduled following receipt of such written and documentary evidence.

Defendants would agree to hold the record open for two weeks following the conclusion of the trial, limited to the receipt of additional exhibits (only training materials or ads and not other educational materials) that become available after the end of the trial commencing on January 25. Defendants oppose any attempt to introduce evidence from witnesses not identified by name in pretrial disclosures.

3. **Trial Hours.** The Parties' position on number of trial hours is as follows:

Plaintiffs seek 30 hours of combined trial time for the NAACP Plaintiffs and United States collectively, including opening and closing arguments and witness examinations. This estimate assumes all witnesses testify live in court or that video deposition excerpts will be played in Court. Plaintiffs' estimate is based on the Court's expressed preference to hear live witnesses, which may require Plaintiffs to call additional witnesses, including witnesses from the North Carolina Department of Transportation and Department of Motor Vehicles whom the Plaintiffs do not control. The length of such testimony is difficult to judge at this time. Plaintiffs also anticipate calling at least one adverse witness from the State Board of Elections.

Defendants seek 5 days of trial time, divided equally between Plaintiffs and Defendants. If additional days of trial time are set, Defendants request that those hours be divided equally between Plaintiffs and Defendants.

Dated: January 8, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2016, I electronically filed the foregoing **JOINT REPORT REGARDING TRIAL PRESENTATION AND RECORD**, using the CM/ECF system in case numbers 1:13-cv-658, 1:13-cv-660, and 1:13-cv-861, which will send notification of such filing to all counsel of record.

/s/ Daniel T. Donovan _____

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