

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,)

and)

LOUIS M. DUKE, *et al.*,)

1:13CV660

Plaintiffs-Intervenors,)

v.)

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

Defendants.)

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

1:13CV861

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

Defendants.)

**DEFENDANTS' MOTION FOR PROTECTIVE ORDER
OR FOR OTHER APPROPRIATE RELIEF**

NOW COME Defendants, by and through undersigned counsel, and move the Court pursuant to Rule 26(c) of the Federal Rules of Civil Procedure for a protective order or for an order granting other appropriate relief. Specifically, Defendants respectfully pray for an Order from the Court:

- (1) Imposing a cap on the number of Requests for Production pursuant to Rules 34 or 45, Fed. R. Civ. P., that may be served by the parties going forward in this action;
- (2) Requiring Plaintiffs to re-formulate search terms for the search of electronic records to search terms reasonably calculated to lead to the discovery of evidence admissible in any preliminary injunction proceedings before the Court, and in general to more precisely identify records that may contain admissible or discoverable evidence;
- (3) Limiting Defendants' obligation to search for and review documents, whether electronic or otherwise, to 2013, the legislative year of passage of VIVA, unless Plaintiffs can specifically justify an identifiable category of documents that should be excluded from such limitation;
- (4) Excluding from Defendants' obligation to search for and review documents, whether electronic or otherwise, any production of documents subject to

- legislative immunity, or post-enactment documents regarding administration or implementation of VIVA, for the same reasons set forth in Defendants' Response to Plaintiffs' Motion to Compel;
- (5) Requiring Plaintiffs to bear the financial burden of any review for electronic records that exceeds 50,000 individual files or records; and
- (6) Awarding Defendants their reasonable costs and attorneys' fees incurred in prosecuting the instant motion.

Defendants seek this protective order or other relief due to the undue burden and expense imposed upon them by Plaintiffs' discovery requests. More particular grounds for this motion are stated in the Memorandum in Support of Defendants' Motion for Protective Order or for Other Appropriate Relief filed contemporaneously herewith and incorporated herein by reference as though fully set forth.

The undersigned certify, pursuant to Rule 26(c)(1) of the Federal Rules of Civil Procedure, that they have in good faith conferred or attempted to confer with counsel for Plaintiffs in an effort to resolve this dispute without court action. In a meet-and-confer conducted among counsel for the parties on 17 February 2014, counsel for Plaintiffs agreed to consider prioritizing requests but as of the time of filing the instant motion had not made any specific proposal. Moreover, Plaintiffs have not yet agreed to limit or otherwise narrow their requests irrespective of any prioritizing in the near term. Defendants, therefore, are filing this motion on this date so that it can be heard with other discovery motions on Friday, 21 February 2014, in the event that the parties are not able to resolve the dispute between them.

Wherefore, Defendants respectfully pray that the Court enter a protective order relieving them from the undue burden and expense of Plaintiffs' discovery requests as set forth above, or granting such other relief as may be appropriate.

This the 17th day of February, 2014.

ROY COOPER
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By: /s/ Alexander McC. Peters

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*appearing pursuant to Local Rule 83.1(d)

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CERTIFICATE OF SERVICE

I, Thomas A. Farr, hereby certify that I have this day electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will provide electronic notification of the same to the following:

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This 17th day of February, 2014.

/s/ Thomas A. Farr

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