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.	**UNITED STATES' RESPONSE TO THE STATE LEGISLATORS' AND DEFENDANTS' BRIEF ON THE ISSUE OF LEGISLATIVE IMMUNITY AND LEGISLATIVE PRIVILEGE** 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. 13-cv-861

The United States respectfully submits this response to Defendants' and the State Legislators' Brief on the Issue of Legislative Immunity and Legislative Privilege Pursuant to Joint Status Report ("Defs.' Mem."). ECF No. 119.[1] Although this Court has rejected their contention that state legislative privilege is absolute in this case, Defendants and the State Legislators continue to refuse to produce *any* documents—or even a privilege log of such documents—in the possession of the State Legislators. The production of legislator documents, and the accompanying privilege log, is long overdue.

In their most recent brief, Defendants and State Legislators recycle many of the same arguments made in prior filings. Each of these contentions is unavailing. First, Plaintiffs' discovery requests seek legislative evidence that is highly relevant to their intentional discrimination claims. Second, as this Court has already held, state legislative privilege is not absolute but rather must be evaluated under a flexible approach that considers the need for the evidence in these particular voting rights cases. Third, communications between legislators and outside third parties are not protected by legislative privilege and should be produced immediately. And finally, for all remaining responsive documents, the State Legislators must promptly produce a privilege log that is sufficiently detailed to establish their claim of privilege with respect to each document or category of documents. Such a privilege log would help narrow the scope of any remaining disputes regarding these communications.

[1] Pleadings cited herein were filed in all three of the related cases. The United States refers to documents filed in *United States v. North Carolina*, 13-cv-861.

I. THE REQUESTED DOCUMENTS ARE HIGHLY RELEVANT TO PLAINTIFFS' INTENTIONAL DISCRIMINATION CLAIMS

Voting laws that were enacted or maintained for a discriminatory purpose violate Section 2 of the Voting Rights Act. *See Dillard v. Baldwin Cnty. Bd. of Elections*, 686 F. Supp. 1459, 1467-68 (M.D. Ala. 1988). The subpoenaed documents likely contain evidence that is highly probative of Plaintiffs' claims that HB 589 has a discriminatory purpose. "[A]ssessing a jurisdiction's motivation in enacting voting changes is a complex task requiring a 'sensitive inquiry into such circumstantial and direct evidence as may be available.'" *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 488 (1997) (quoting *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977)). Accordingly, courts routinely look to legislative evidence—including documents and testimony obtained from legislators (and their staff) —in Voting Rights Act cases. *See United States v. Charleston Cnty.*, 316 F. Supp. 2d 268, 292 (D.S.C. 2003), *aff'd* 365 F.3d 341 (4th Cir. 2004) (Section 2); Op. at 6, *Perez v. Perry* (*Perez I*), 5:11-cv-360 (W.D. Tex. Mar. 19, 2012) (three-judge court) (Ex. 1) (Section 2); *Garza v. Cnty. of Los Angeles*, 756 F. Supp. 1298, 1314-18 (C.D. Cal. 1990), *aff'd* 918 F.2d 763, 769 (9th Cir. 1990) (Section 2); *Texas v. United States*, 887 F. Supp. 2d 133, 154-56, 161 n.32 (D.D.C. 2012) (three-judge court), *vacated on other grounds*, 133 S. Ct. 2885 (2013) (Section 5); *Busbee v. Smith*, 549 F. Supp. 494, 500 (D.D.C. 1982), *aff'd* 459 U.S. 1166 (1983) (Section 5); *see also Hunt v. Cromartie*, 526 U.S. 541, 549 (1999) (challenge to North Carolina's congressional redistricting plan under the Fourteenth Amendment).

Because "racial discrimination is not just another competing [policy] consideration," the voting rights cases currently before this Court involve precisely the context in which judicial inquiry into legislative purpose is appropriate. *Arlington Heights*, 429 U.S. at 265. The Fourth Circuit itself has emphasized that race discrimination cases are among the "limited exceptions to the principle that judicial inquiry into legislative motive is to be avoided." *South Carolina Educ. Ass'n v. Campbell*, 883 F.2d 1251, 1259 & n.6 (4th Cir. 1989). As the plurality held in the Section 2 case, *Marylanders for Fair Representation, Inc. v. Schaefer*, "[t]he doctrine of legislative immunity (both in its substantive and testimonial aspects) . . . does not . . . necessarily prohibit judicial inquiry into legislative motive where the challenged legislative action is alleged to have violated an overriding, free-standing public policy." 144 F.R.D. 292, 304 (D. Md. 1992) (three-judge court) (opinion of Murnaghan, C.J., and Motz, D.J.). "Here, there is an overriding, free-standing public policy reflected in the Equal Protection Clause of the federal Constitution and the Voting Rights Act." *Page v. Virginia State Bd. of Elections*, 2014 WL 1873267, at *6 (E.D. Va. May 8, 2014).

Plaintiffs' discovery should not, as Defendants and the State Legislators urge, be confined to the official legislative record. *See* Defs.' Mem. at 12-13. First, the State legislature deliberately truncated the legislative process on the omnibus version of HB 589, resulting in a public record that is incredibly sparse for an elections bill of such magnitude. The transformation of HB 589 from a limited voter photo identification bill to an omnibus overhaul of state election law happened *behind closed doors*. *See* ECF No. 100-17, JA 377-79 (Kinnaird Decl. ¶¶ 19-26); ECF No. 100-13, JA 310 (Glazier

Decl. ¶ 40); ECF No. 97, United States' Mem. in Support of Mot. for Preliminary Injunction ("United States' PI Mem.") at 60-62. The omnibus bill—which for the first time proposed cutting seven days of early voting, eliminating same-day registration, and prohibiting the counting of provisional ballots cast out-of-precinct, among other things—became public just three days before it passed the legislature and was aired, with virtually no warning or opportunity to prepare, at a single committee hearing before proceeding to the Senate and then House floors for debate. *See* United States' PI Mem. at 12-19. Documents produced by the State Board of Elections (SBOE) in this case show that legislators had access to data revealing that African Americans disproportionately lacked DMV-issued photo identification and disproportionately relied on early voting, same-day registration, and provisional voting. *See* ECF No. 120, United States Br. Regarding Legislator Documents ("United States' Mem.") at 12; Ex. 2 (July 25, 2013 email from K. Strach to Rep. D. Lewis and excerpt of data provided); Ex. 3 (July 24-25, 2013 email thread between G. Gebhardt and K. Strach).

But because so much of the legislative process on the omnibus bill occurred in private and is not reflected in the official record, the complete picture, including how legislators responded to the evidence of disproportionate racial impact, remains obscured. By cloaking the legislative process in secrecy, the legislature essentially stripped the official record of meaning, which itself suggests an invidious purpose and undercuts claims to legislative privilege. In *United States v. Irvin*, for example, the paucity of the public record was one factor that led the court to conclude that legislative privilege "must

yield in this instance to the need for disclosure." 127 F.R.D. 169, 173-74 (C.D. Cal. 1989); *see also Veasey v. Perry*, 2014 WL 1340077, at *3 (S.D. Tex. Apr. 3, 2014).

Second, as the district court that ordered legislative discovery in *Veasey v. Perry*, a Section 2 case challenging Texas' photo voter identification law, explained, internal legislative documents are "highly relevant to [the United States'] claim because [they] bear[] directly on whether state legislators, contrary to their public pronouncements, acted with discriminatory intent in enacting [the law]." 2014 WL 1340077, at *2; *see also Page*, 2014 WL 1873267, at *7; Mem. and Order at 34, *Favors v. Cuomo* (*Favors II*), 11-cv-5632 (E.D.N.Y. Feb. 8, 2013) (unpublished) (Ex. 4). Reliance on public statements alone is inadequate because "officials acting in their official capacities seldom, if ever, announce on the record that they are pursuing a particular course of action because of their desire to discriminate against a racial minority." *Smith v. Town of Clarkton*, 682 F.2d 1055, 1064 (4th Cir. 1982). In addition, although the *contemporaneous* public record is thin, Defendants have *post hoc* articulated their own purported explanations for the changes adopted in HB 589, *see* ECF No. 126, Defs.' Mem. in Opp'n to Pls.' Mots. For Preliminary Injunction at 35-40, rendering access to candid legislative deliberations particularly important, *see Favors II* at 27-28 (Ex. 4).[2]

Finally, documents containing these communications are also not likely to be obtainable through other means. Legislators are the best—and in some instances, the

[2] Plaintiffs are entitled to seek both direct and circumstantial legislative evidence of purposeful discrimination. The circumstantial evidence here includes purely factual material on which legislators relied. *See*, *e.g.*, United States' Mem. at 12; *Page*, 2014 WL 1873267, at *7.

only—source of such evidence. *See, e.g.*, *Favors v. Cuomo* ("*Favors I*"), 285 F.R.D. 187, 219 (E.D.N.Y. 2012); *Rodriguez v. Pataki*, 280 F. Supp. 2d 89, 102 (S.D.N.Y. 2003). Limiting discovery of legislative evidence to documents in the possession of state agencies, as Defendants suggest, is not appropriate in this case. *See* Defs.' Mem. at 16. As the United States pointed out in its opening brief, this approach would exclude whole categories of relevant information from production. *See* United States' Mem. at 8-9. Legislators' communications with constituents, political operatives, and public interest groups relating to HB 589 are likely to reveal lawmakers' contemporaneous statements and viewpoints, and shed light on the legislative process—all highly relevant evidence in these cases alleging intentional racial discrimination in voting. *See Arlington Heights*, 429 U.S. at 266-68; *Page*, 2014 WL 1873267, at *7. Furthermore, the United States' initial review of the produced agency documents indicates that some responsive documents (for example, attachments to outgoing emails in a multi-email thread) may not have been produced by the agency. Requiring the State Legislators to produce communications with all third parties is necessary to ensure that the complete universe of third-party documents has been produced.

II. THE STATE LEGISLATORS SHOULD PRODUCE IMMEDIATELY DOCUMENTS REFLECTING LEGISLATOR COMMUNICATIONS WITH THIRD PARTIES AND A PRIVILEGE LOG OF REMAINING RESPONSIVE DOCUMENTS

A. Legislative Privilege Is Not Absolute

Although the argument has now been twice rejected in this case, Defendants and the State Legislators continue to press their claim that state legislative privilege is

absolute. *See* Defs.' Mem. at 5-9. Claims of legislative privilege, however, "must be evaluated under a flexible approach that considers the need for the information in the context of the particular suit presented." ECF No. 79, Order at 3 (March 27, 2014), *aff'd* ECF No. 93, Memorandum Order at 24-25 (May 15, 2014); *see also Page*, 2014 WL 1873267, at *6-7; *Marylanders*, 144 F.R.D. at 304-05; *Veasey*, 2014 WL 1340077, at *2.

The Fourth Circuit's decision in *EEOC v. Washington Suburban Sanitary Comm'n* (*WSSC*), 631 F.3d 174 (4th Cir. 2011), is not to the contrary. *Contra* Defs.' Mem. at 7. In *WSSC*, the court had no occasion to determine whether the need for discovery into legislative activities outweighed any potential intrusion on the legislative process because it concluded that the information the EEOC sought related to activities that were not "legislative." Like many of the document requests at issue here, the EEOC subpoena requested documents regarding events that pre- and post-dated the relevant legislative activity, and therefore did not implicate legislative privilege. *See WSSC*, 631 F.3d at 183-84. Moreover, *WSSC* involved an entirely different substantive context than the voting rights cases presently before this Court. The complainants in *WSSC* were government employees who sought to use federal antidiscrimination law to challenge legislative budgetary decisions that adversely affected their employment. *See id.* at 176-77. The Fourth Circuit's decision reflects the underlying notion that, to the extent the complainants were really challenging the quintessentially legislative act of passing a budget, they had no cause of action. *See* ECF No. 72, United States' Supp. Br. in Opp'n to Mot. to Quash Subpoenas to State Legislators at 6-9. *WSSC* does not address the scope of legislative privilege in voting rights cases, where plaintiffs have always had a cause of

action under the Voting Rights Act to challenge discriminatory legislation. As this Court previously recognized, in this context, courts "should not simply rely upon bright line tests which have been developed in other contexts to bar virtually all discovery of relevant facts." March 27 Order at 6 (quoting *Marylanders*, 144 F.R.D. at 305).

B. Documents Reflecting Communications with Third Parties

Defendants and the State Legislators err in contending that *all* documents in the possession and control of state legislators, including documents reflecting communications with outside third parties, are "legislative communications that go to the very heart of" the doctrine of legislative privilege. Defs.' Mem. at 2 & 9-10. Communications made in the presence of non-legislators or documents "made public or . . . shared with individuals outside the legislative process" are not protected by state legislative privilege. *Favors I*, 285 F.R.D. at 213 n.26; *see also Comm. for a Fair and Balanced Map v. Ill. State Bd. of Elections*, 2011 WL 4837508, at *10 (N.D. Ill. Oct. 12, 2011); *Doe v. Nebraska*, 788 F. Supp. 2d 975, 987 (D. Neb. 2011); *Perez v. Perry* ("*Perez II*"), 2014 WL 106927, at *2 (W.D. Tex. Jan. 8, 2014) (three-judge court). Any privilege that might otherwise have attached to underlying information in any particular communication was waived when the legislator shared that information with an individual outside the legislative process. *See Favors I*, 285 F.R.D. at 212; *Perez II*, 2014 WL 106927, at *2. Legislative privilege does not exist so that legislators may "discuss [legislative] matters with some outsiders but then later invoke the privilege as to others." *Almonte v. City of Long Beach*, 2005 WL 1796118, at *3 (E.D.N.Y. Jul. 27, 2005). *See also* United States Mem. at 7-10.

Nor are communications with third parties confidential under North Carolina state law. Under the North Carolina Public Records Act, all documents "regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions" are "public records." N.C.G.S. § 132-1(a). As public records, such documents "are the property of the people" and are subject to inspection and copying by the public "unless otherwise specifically provided by law." *Id.* § 132-1(b).[3] *See also Guide to Open Government and Public Records* at 3 (publication of the North Carolina Attorney General's Office and the North Carolina Press Association) (Ex. 5).

The North Carolina courts have interpreted the Public Records Act in favor of openness and construed exemptions to the Act's mandatory disclosure requirement narrowly. *See, e.g., News and Observer Publ'g Co. v. Poole*, 412 S.E.2d 7, 19-20 (N.C. 1992) ("[I]n the absence of clear statutory exemption or exception, documents falling within the definition of 'public records' in the Public Records Act must be made available for public inspection."); *see also LexisNexis Risk Data Management Inc. v. N.C. Admin. Office of the Courts*, 754 S.E.2d 223, 229 (N.C. App. 2014); *McCormick v. Hanson Aggregates Se.*, 596 S.E.2d 431, 438 (N.C. App. 2004). Although, pursuant to Article 17 of the North Carolina General Statutes, certain documents and communications exchanged between legislators and legislative employees are statutorily

[3] The statute defines an "[a]gency of North Carolina government or its subdivision" to include "every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government." N.C.G.S. § 132-1(a).

exempt from disclosure under the Public Records Act, *see* N.C.G.S. §§ 120-130(d), 131(b), 131.1(a1), communications between legislators and members of the public or, in most instances, employees of state agencies, are not within the scope of this limited statutory carve-out, *see id.* § 120-129(2) (defining "legislative employee"). As the North Carolina Attorney General recognized in a 2002 Advisory Opinion, because "confidentiality of communications between a legislator and a member of the public . . . is not specifically addressed by" Article 17, such communications are public records subject to disclosure under the Public Records Act. Attorney General Legal Op., 2002 WL 544469, at *1-2 (Feb. 14, 2002).[4]

In any event, federal common law, not state law, governs the scope of state legislative privilege in this case. *See* Fed. R. Evid. 501; *United States v. Gillock*, 445 U.S. 360, 368 (1980); *Virmani v. Novant Health Inc.*, 259 F.3d 284, 286 (4th Cir. 2001). And courts have not shied away from overruling state confidentiality laws or privileges "found to be in conflict with the enforcement of federal civil rights laws." *Irvin*, 127 F.R.D. at 174 (citing cases). In this case, under either state or federal law, legislators

[4] The North Carolina Supreme Court's decision in *Dickson v. Rucho*, 737 S.E.2d 362 (N.C. 2013), is not to the contrary. The court in *Dickson* interpreted Section 120-133, under which certain legislative documents and communications relating to redistricting that would otherwise be confidential and thus "*not* public records" under Article 17 "become public records" once a redistricting plan is enacted. *Dickson*, 737 S.E.2d at 370-71. Specifically, the Court considered whether Section 120-133 waived legislators' right to assert attorney-client privilege over documents relating to redistricting. *Id.* at 368. Because legislator communications with outside third parties are not covered by Article 17 in the first place (and are therefore public records under the North Carolina Public Records Act), the scope of the redistricting exception to Article 17 is inapposite. *See id.* at 371 (noting that Article 17 declares only "specific legislative communications" to be "*not* public records"); Attorney General Legal Op., 2002 WL 544469, at *1-2.

have no reasonable expectation of privacy in communications with individuals and organizations outside the General Assembly. Defendants and the State Legislators should produce documents reflecting such communications forthwith.

C. Remaining Responsive Documents

With respect to the remaining categories of responsive documents, including (a) legislator to legislator communications, (b) legislator to legislative staff communications (other than those involving communication between a legislator and his or her personal aides), and (c) legislator communications with outside counsel prior to the commencement of litigation on August 12, 2013, a privilege log is critical.[5] This Court has already held that it must make "a particularized determination of the extent of any privilege, balancing the need for obtaining the information with the impact on legislative sovereignty and the need to 'insure that legislators are not distracted from or hindered in the performance of their legislative tasks.'" March 27 Order at 6-7 (quoting *Doe v. Pittsylvania Cnty.*, 842 F. Supp. 2d 906, 916 n.6 (W.D. Va. 2012)); *see also* May 15

[5] The parties have agreed for now to exclude communications between legislators and their personal aides. Defendants complain that Plaintiffs have not defined the difference between a "personal aide" and "legislative staff." Defs.' Mem. at 5 n.2. Counsel for Defendants themselves, however, explained during a May 21, 2014 conference call that most North Carolina legislators have only one or two "personal aides" who work for them exclusively. According to Defendants' counsel, most legislative staff work for the General Assembly as a whole and provide assistance to individual legislators upon request. Hence, communications between legislators and such general legislative staff should be included on a privilege log. *See Page*, 2014 WL 1873267, at *4 (recognizing that legislative privilege carries less weight when applied to "committee or general legislative staff members" as opposed to staff "who work exclusively for a particular legislator"); *Fla. Ass'n of Rehab. Facilities, Inc. v. Fla. Dept. of Health and Rehab. Servs.*, 164 F.R.D. 257, 267 (N.D. Fla. 1995) (declining to extend legislative privilege to general legislative staff).

Order at 25 (concluding that the Magistrate Judge must determine "[w]hether Plaintiffs' requests seek a document or group of documents that implicates the legislative privilege"). Courts making this determination in voting rights cases frequently consider (1) the relevance of the evidence sought; (2) the availability of other evidence; (3) the seriousness of the litigation and the issues involved; (4) the role of the government in the litigation; and (5) the possibility of future timidity by government employees. *See* May 15 Order at 22 n.11. A detailed privilege log will assist the parties in winnowing the number of documents in dispute, and the Court in determining whether state legislative privilege is implicated by specific requests, and the extent to which it must yield to the need for disclosure. *See* United States' Mem. at 11-14.

The relevant factors weigh in favor of disclosure here. The requested documents are likely to contain evidence that is highly probative of Plaintiffs' claims that HB 589 violates Section 2 because of a discriminatory purpose, and legislators are the best source for complete evidence on this point. *See supra* Part I. Without discovery of legislators, Plaintiffs have no way of knowing those individuals outside the General Assembly with whom legislators consulted on HB 589. The importance of the litigation and the issues involved—eliminating racial discrimination in voting—"cannot be overstated." *Veasey*, 2014 WL 1340077, at *2. And finally, North Carolina's role in this litigation is direct. *See id.*; *Page*, 2014 WL 1873267, at *6-7.

These factors outweigh any "minimal future 'chilling effect'" that disclosure might have on the legislature. *Baldus v. Wis. Gov't Accountability Bd.*, 2011 WL 6122542, at *2 (E.D. Wis. Dec. 8, 2011) (three-judge court); *cf. Gillock*, 445 U.S. at 373.

As the district court found in *United States v. Irvin*, "the occasional instance in which disclosure may be ordered in a civil context will [not] add measurably to the inhibitions already attending legislative deliberations." 127 F.R.D. at 174; *see also Veasey*, 2014 WL 1340077, at *3 (finding that "the overall balance of factors weighs in favor of disclosure on a confidential basis"); *Favors II*, at 34 (Ex. 4) (holding that with respect to "documents reveal[ing] an awareness that the [redistricting plan] may dilute minority votes, legislative privilege is overcome"); *Marylanders*, 144 F.R.D at 304-05.

If the Court is concerned that public disclosure of internal deliberations may impede future North Carolina legislators, the Court could employ case management practices to minimize the intrusion. For example, in *Veasey v. Perry*, the court ordered Texas to produce legislative documents under seal, pursuant to the protective order in that case. *See* 2014 WL 1340077, at *3. A similar procedure could protect the confidentiality of sensitive internal legislative documents in this case. *See* ECF Nos. 36 & 37 (Protective Order and Supp. Protective Order).

There are also multiple ways to alleviate the practical burden that the State Legislators contend document discovery will entail. *See* Defs.' Mem. at 9. As an initial matter, there is every reason to believe that Defendants' initial search results dramatically overstated the number of documents at issue. When applying Plaintiffs' search terms to files at the SBOE, for example, Defendants initially contended that they retrieved 403,566 documents. *See* ECF No. 60, Mem. in Support of Defs.' Mot. for a Protective Order at 7. Once the search terms were run properly and duplicate documents were removed, however, that number dropped by roughly 60 percent—to about 161,000

documents. Ex. 6 (Mar. 4, 2014 email from P. Strach to B. O'Connor).[6] In addition, it is the United States' understanding, based on discussions with counsel, that Defendants' counsel collected and began reviewing the State Legislators' documents months ago. *See* United States' Mem. at 10.

Documents that Defendants' counsel have yet to review could be handled according to the procedures the parties used for the SBOE's email and electronic documents: they could be released to Plaintiffs for an initial responsiveness review by attorneys only, without waiver of potential privileges. *See* ECF No. 74, Order at 7-9 (Mar. 3, 2014). This approach would also likely reduce the number of documents that Defendants would have to include on a privilege log; any non-responsive documents inadvertently captured by Plaintiffs' search terms would be whittled out through Plaintiffs' initial review.

III. CONCLUSION

For all the foregoing reasons, the Court should order Defendants and the State Legislators to produce expeditiously documents within the State Legislators' custody or control that reflect legislators' communications with third parties. The Court should further order Defendants and the State Legislators to provide a detailed privilege log for all remaining documents over which they claim privilege, including legislator to legislator communications, legislator to legislative staff communications (other than with

[6] Pursuant to the Court's March 3, 2014 case management order, approximately 150,000 of these documents were released directly to counsel for Plaintiffs to conduct an initial responsiveness review. *See* Order at 7-9, ECF No. 74 (Mar. 3, 2014); Ex. 6 (Mar. 4, 2014 email from P. Strach to B. O'Connor). The plaintiffs were able to remove thousands of additional duplicates even from this batch of documents.

a legislator's own personal aide), and legislator to outside counsel communications prior to the commencement of litigation on August 12, 2013.

Dated: June 25, 2014

Respectfully submitted,

RIPLEY RAND
United States Attorney
Middle District of North Carolina

/s/ Gill P. Beck
GILL P. BECK
NCSB No. 13175
Special Assistant Unites States Attorney
100 Otis Street
Asheville, NC 28801
Telephone: (828) 259-0645

JOCELYN SAMUELS
Acting Assistant Attorney General
Civil Rights Division

/s/ Elizabeth M. Ryan
T. CHRISTIAN HERREN, JR.
JOHN A. RUSS IV
CATHERINE MEZA
DAVID G. COOPER
SPENCER R. FISHER
JENIGH J. GARRETT
ELIZABETH M. RYAN
Attorneys, Voting Section
Civil Rights Division
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Telephone: (800) 253-3931
Email: elizabeth.ryan@usdoj.gov

CERTIFICATE OF SERVICE OF DISCOVERY

I hereby certify that on June 25, 2014, I electronically filed the foregoing **United States' Response to the State Legislators' and Defendants' Brief on the Issue of Legislative Immunity and Legislative Privilege,** 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/ Elizabeth M. Ryan

ELIZABETH M. RYAN
U.S. Department of Justice
Civil Rights Division - Voting Section
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
Phone: (800) 253-3931
Email: elizabeth.ryan@usdoj.gov