

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

_____)
NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE'S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Case No.: 1:13-CV-658

Plaintiffs,)

v.)

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.)
_____)



LEAGUE OF WOMEN VOTERS OF NORTH)
CAROLINA, A. PHILIP RANDOLPH)
INSTITUTE, UNIFOUR ONESTOP)
COLLABORATIVE, COMMON CAUSE)
NORTH CAROLINA, GOLDIE WELLS, KAY)
BRANDON, OCTAVIA RAINEY, SARA)
STOHLER, and HUGH STOHLER,)

Plaintiffs,)

vs.)

THE STATE OF NORTH CAROLINA,)
JOSHUA B. HOWARD in his official capacity as a)
member of the State Board of Elections, RHONDA)
K. AMOROSO in her official capacity as a member)
of the State Board of Elections, JOSHUA D.)
MALCOLM in his official capacity as a member of)
the State Board of Elections, PAUL J. FOLEY in)
his official capacity as a member of the State Board)
of Elections, MAJA KRICKER in her official)
capacity as a member of the State Board of)
Elections, and PATRICK L. MCCRORY in his)
official capacity as Governor of the state of North)
Carolina,)

Defendants.)

Case No.: 1:13-CV-660

**PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT
PATRICK LLOYD MCCRORY**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs in the above captioned matters jointly submit their first set of requests for the production of documents and tangible things to Governor Patrick Lloyd McCrory, in his official capacity as the Governor of North Carolina. In accordance with Rule 34, Governor McCrory shall respond to these requests for production and shall produce the documents requested. Responses to the *NAACP* Plaintiffs are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, and are due within thirty days of service

of these requests for production. Responses to the *League of Women Voters* Plaintiffs are to be served to American Civil Liberties Union, 125 Broad St., 18th Fl., New York, NY 10004, to the attention of Dale Ho, and are due within thirty days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If the Defendant objects to any part of a request, set forth the basis for your objection and respond to all parts of the request to which you do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to the Defendant or subject to your reasonable access or control. Documents requested are those in the actual or constructive possession or control of you, your attorneys, investigators, experts, and anyone else acting on your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in the Defendant's possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the

identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that you obtain after you serve your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages

where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.
2. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.
3. “Complaint” shall mean the First Amended Complaint filed by Plaintiffs in the above-captioned action.
4. “Defendants” shall mean Patrick Lloyd McCrory, in his official capacity as the Governor of North Carolina; Kim Westbrook Strach, in her official capacity as Executive Director of the North Carolina State Board of Elections; Joshua B. Howard, in his official capacity as Chairman of the North Carolina State Board of Elections; Rhonda K. Amoroso, in her official capacity as Secretary of the North Carolina State Board of Elections; Joshua D. Malcolm, in his official capacity as a member of the North Carolina State Board of Elections; Paul J. Foley, in his official capacity as a member of the North Carolina State Board of

Elections; and Maja Kricker, in her official capacity as a member of the North Carolina State Board of Elections.

5. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Defendants’ possession, custody or control, including all drafts of all such documents, and all documents Defendants have provided to Defendants’ counsel. Defendants are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

6. “Early voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day as provided for in N.C. Gen. Stat. § 163-227.2(b).

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on Election Day.

8. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

9. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

10. “Office of the Governor” shall mean the Governor of North Carolina and any of his employees, agents, representatives, or other personnel involved in the function or duties of the political office of the Governor.

11. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

12. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the close of discovery in this case.

13. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

14. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

15. “You” and “your” shall mean Governor Patrick Lloyd McCrory, in his official capacity as the Governor of North Carolina, and all of his employees, agents, or representatives.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by the Office of the Governor that reflect or discuss the rationale or purpose for enacting any provision in H.B. 589 or signing H.B. 589 (or similar provisions proposed previously) into law.

REQUEST FOR PRODUCTION NO. 2:

All documents and communications concerning any instructions issued to or actions by the Office of the Governor or others to require state agencies to take steps to implement the

provisions of H.B. 589.

REQUEST FOR PRODUCTION NO. 3:

All documents and communications received or created by the Office of the Governor related to the incidence of in-person voter fraud in North Carolina from 1995 to the present.

REQUEST FOR PRODUCTION NO. 4:

All documents and communications received or created by the Office of the Governor relating to the procedures and budget for identifying or detecting in-person voter fraud.

REQUEST FOR PRODUCTION NO. 5:

All documents and communications received or created by the Officer of the Governor related to the incidence of voter fraud involving absentee ballots in North Carolina from 1995 to the present.

REQUEST FOR PRODUCTION NO. 6:

All documents and communications received or created by the Office of the Governor relating to the procedures and budget for identifying or detecting voter fraud involving absentee ballots.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications relating to the Office of the Governor's consideration, evaluation, or review of the process for obtaining the photo identification required to vote as set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications relating to the Office of the Governor's

consideration, evaluation, or review of reports issued by the State Board of Elections concerning proposed, debated, or enacted voting legislation during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications relating to the Office of the Governor's appointments to the NCDOT, including to the DMV, from 2012 to present.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications relating to the Office of the Governor's appointments to the State Board of Elections, from 2012 to present.

REQUEST FOR PRODUCTION NO. 11:

All documents and communications between the Office of the Governor and the NCDOT, including the DMV, regarding the prospective impact or implementation of proposed, debated or enacted voting legislation during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 12:

All communications between the Office of the Governor and any state and local election officials regarding the prospective impact or implementation of proposed, debated or enacted voting legislation during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 13:

All documents and communications relating to the Office of the Governor's consideration, evaluation, or review of any voting legislation proposed, debated, or enacted by

the North Carolina General Assembly from the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 14:

All documents and communications referring or relating to any estimate, report, study, or analysis received or created by the Office of the Governor concerning the number of registered voters who do not have any of the forms of photo identification acceptable to vote under H.B. 589.

REQUEST FOR PRODUCTION NO. 15:

All documents and communications received or created by the Office of the Governor concerning estimates, reports, studies, or analyses of the costs to voters to secure documents required to obtain photo identification under H.B. 589.

REQUEST FOR PRODUCTION NO. 16:

All documents and communications received or created by the Office of the Governor relating to any cost or expense that will be incurred by the State in connection with the photo identification requirement set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 17:

All documents and communications referring or relating to any estimate, report, study, or analysis received or created by the Office of the Governor concerning H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, early voting, , and/or potential increased waiting times at polls.

REQUEST FOR PRODUCTION NO. 18:

All documents and communications referring or relating to any estimate, report, study, or

analysis received or created by the Office of the Governor concerning early voting in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 19:

All documents and communications received or created by the Office of the Governor relating to the cost or expense, including any estimates or analyses, of administering early voting in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 20:

All documents and communications received or created by the Office of the Governor relating to the costs or expense of administering local, state, and federal elections in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 21:

All documents and communications received or created by the Office of the Governor relating to any data tracking, recording, or study of voting patterns by race.

REQUEST FOR PRODUCTION NO. 22:

All documents and communications referring to relating to any estimate, report, study, or analysis received or created by the Office of the Governor concerning out of precinct voting in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 23:

All documents and communications referring or relating to any estimate, report, study, or analysis received or created by the Office of the Governor concerning same day registration in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 24:

All documents and communications referring or relating to any estimate, report, study, or analysis received or created by the Office of the Governor regarding poll observers in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 25:

All documents and communications referring or relating to any estimate, report, study, or analysis received or created by the Office of the Governor regarding straight ticket voting in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 26:

All documents and communications relating to plans or efforts by the Office of the Governor to educate citizens of North Carolina about the provisions in H.B. 589.

REQUEST FOR PRODUCTION NO. 27:

All documents and communications relating to information you prepared or provided for use in a submission to the Department of Justice pursuant to Section 5 of the Voting Rights Act from 2000 to the present.

REQUEST FOR PRODUCTION NO. 28:

All documents and communications concerning drafts, notes, talking points, or other materials made in preparation for any public (or media-related) appearance or statement by the Office of the Governor relating to any provision in H.B. 589 or any voting law proposed or enacted during the 2013 session of the North Carolina General Assembly

REQUEST FOR PRODUCTION NO. 29:

All recordings made in connection with any public (or media-related) appearance or

statement made by the Office of the Governor by video or other electronic media relating to any provision of H.B. 589 or any voting law proposed or enacted during the 2013 session of the North Carolina General Assembly, including draft recordings that were not released to the public.

REQUEST FOR PRODUCTION NO. 30:

Any document retention policies that were in effect at the Office of the Governor from 2012 to the present concerning the preservation of public records.

REQUEST FOR PRODUCTION NO. 31:

Any litigation hold notices issued to the Office of the Governor in connection with the above captioned matters, *North Carolina State Conference of the NAACP, et al. v. McCrory, et al.* and *League of Women Voters of N.C., et al. v. North Carolina.*

REQUEST FOR PRODUCTION NO. 32:

All documents and communications relating to the claims and defenses you have raised or intend to raise in response to the Complaint, including all communications and/or documents on which you intend to rely on at trial or otherwise in this case.

REQUEST FOR PRODUCTION NO. 33:

All documents and communications received or created by the Office of the Governor that reflect or discuss the U.S. Supreme Court's consideration of *Shelby County v Holder* or the constitutionality of Section 5 of the Voting Rights Act from 2012 to present.

Dated: November 29, 2013

Respectfully submitted,

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By: /s/ Adam Stein

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Respectfully submitted,

By: /s/ Dale Ho

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** appearing pursuant to Local Rule 83.1(d)*

Attorneys for Plaintiffs in League of Women Voters of North Carolina, et al. v. North Carolina, et al.

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2013, I served Plaintiffs' First Set of Requests for Production to Defendant Patrick Lloyd McCrory via email to all named parties below. I also hereby certify that I will serve these same Requests via FedEx to all named parties below on December 2, 2013.

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Respectfully Submitted,

/s/ Daniel T. Donovan

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
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BAHEEYAH MADANY, JOCELYN FERGUSON-)
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v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
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Board of Elections, JOSHUA B. HOWARD, in his)
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State Board of Elections, RHONDA K. AMOROSO,)
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J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

LEAGUE OF WOMEN VOTERS OF
NORTH CAROLINA, A. PHILIP
RANDOLPH INSTITUTE, UNIFOUR
ONESTOP COLLABORATIVE,
COMMON CAUSE NORTH CAROLINA,
GOLDIE WELLS, KAY BRANDON,
OCTAVIA RAINEY, SARA STOHLER,
and HUGH STOHLER,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, JOSHUA
B. HOWARD in his official capacity as a member of
the State Board of Elections, RHONDA K.
AMOROSO in her official capacity as a member of
the State Board of Elections, JOSHUA D.
MALCOLM in his official capacity as a member of
the State Board of Elections, PAUL J. FOLEY in his
official capacity as a member of the State Board of
Elections, MAJA KRICKER in her official capacity
as a member of the State Board of Elections, and
PATRICK LLOYD MCCRORY, in his official
capacity as the Governor of North Carolina,

Defendants.

Case No.: 1:13-CV-660

**PLAINTIFFS' JOINT FIRST SET OF REQUESTS FOR PRODUCTION TO
DEFENDANTS MEMBERS OF THE NORTH CAROLINA STATE BOARD OF
ELECTIONS**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the North Carolina NAACP, et al., and the League of Women Voters, et al., (collectively, the "Plaintiffs") jointly submit their first set of requests for the production of documents to Kim Westbrook Strach, in her official capacity as Executive Director of the North Carolina State Board of Elections; Joshua B. Howard, in his official capacity as Chairman of the North Carolina State Board of Elections; Rhonda K. Amoroso, in her official capacity as Secretary of the North Carolina State Board of

Elections; Joshua D. Malcolm, in his official capacity as a member of the North Carolina State Board of Elections; Paul J. Foley, in his official capacity as a member of the North Carolina State Board of Elections; and Maja Krickler, in her official capacity as a member of the North Carolina State Board of Elections (collectively, “Defendants”). In accordance with Rule 34, Defendants shall respond to these requests for production and shall produce the documents requested. Responses are to be served to the *NAACP* Plaintiff are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, North Carolina 27516, to the attention of Adam Stein, and are due within thirty days of services of these requests for production. Responses to the *League of Women Voters* Plaintiffs are to be served to American Civil Liberties Union, 125 Broad St., 18th Fl., New York, NY 10004, to the attention of Dale Ho, and are due within thirty days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If Defendants object to any part of a request, set forth the basis for your objection and respond to all parts of the request to which you do not object.
2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.
3. In responding to these document requests, produce all documents available to Defendants or subject to your reasonable access or control. Documents requested are those in the actual or constructive possession or control of the Defendants, your attorneys, investigators, experts, and anyone else acting on the Defendants’ behalf.
4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Defendants' possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Defendants' possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Defendants' continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that

Defendants obtain after Defendants serve Defendants answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

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DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued by mail to a voter who is unable to attend a polling place in person on Election Day or during One-Stop Early Voting.
2. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

3. “Complaint” shall mean the First Amended Complaint filed by Plaintiffs in the above-captioned action.

4. “Defendants” means Kim Westbrook Strach, in her official capacity as Executive Director of the North Carolina State Board of Elections; Joshua B. Howard, in his official capacity as Chairman of the North Carolina State Board of Elections; Rhonda K. Amoroso, in her official capacity as Secretary of the North Carolina State Board of Elections; Joshua D. Malcolm, in his official capacity as a member of the North Carolina State Board of Elections; Paul J. Foley, in his official capacity as a member of the North Carolina State Board of Elections; and Maja Kricker, in her official capacity as a member of the North Carolina State Board of Elections. “Defendants” also shall include all of your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “Defendants” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the North Carolina State Board of Elections, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

5. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Defendants’ possession, custody or control, including all drafts

of all such documents, and all documents Defendants have provided to Defendants' counsel. Defendants are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

6. "Early Voting" shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day as provided for in N.C. Gen. Stat. § 163-227.2.

7. "In-person voter fraud" shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on Election Day.

8. "NCDOT" shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

9. "H.B. 589" shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

10. "Photo identification" shall mean a photo identification card that meets the requirements to vote under H.B. 589.

11. "Registered voter" shall mean all persons currently registered to vote in the State of North Carolina's database and all persons who may properly register to vote by the close of discovery in this case.

12. "Relating to" as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. "Same-Day Registration" shall mean in-person voter registration on Election Day or during one-stop voting.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications relating to the implementation of H.B. 589, or plans for implementation of H.B. 589, including but not limited to training materials, guidance documents, and other instructions issued by Defendants or others to agencies, employees, or agents of the State of North Carolina.

REQUEST FOR PRODUCTION NO. 2:

All documents and communications related to any incident of in-person voter fraud from 1995 to the present, including but not limited to documents and communications related to the reporting, investigation, or prosecution of any instance in-person voter fraud.

REQUEST FOR PRODUCTION NO. 3:

All documents and communications relating to the procedures and budget for identifying or detecting in-person voter fraud.

REQUEST FOR PRODUCTION NO. 4:

All documents and communications related to any incident of voter fraud involving absentee ballots from 1995 to the present, including but not limited to documents and communications related to the reporting, investigation, or prosecution of any instance voter fraud involving absentee ballots.

REQUEST FOR PRODUCTION NO. 5:

All documents and communications related to any incident of voter fraud involving Same Day Registration and standard (non-Same Day) registration from 1995 to the present, including but not limited to documents and communications related to the reporting, investigation, or

prosecution of any instance voter fraud involving same day registration.

REQUEST FOR PRODUCTION NO. 6:

All documents and communications relating to any any reports, studies, estimates, or analyses comparing the rate of return of verifiable mailings following voters' use of same-day registration with the rate of return of verifiable mailings following voters' use of traditional, non-same-day Registration

REQUEST FOR PRODUCTION NO. 7:

All documents and communications relating to the procedures and budget for identifying or detecting voter fraud involving absentee ballots.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications relating to the process for obtaining the photo identification required to vote as set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications relating to reports, communications, lobbying and testimony issued by the State Board of Elections concerning proposed, debated, and/or enacted voting legislation during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications relating to any reports, studies, estimates, or analyses concerning any voting legislation proposed, debated, or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 11:

All documents and communications relating to proposed election reforms or changes to the rules, procedures, or practices for early voting, voter identification, same-day registration, out-of-precinct voting, voter challenges pursuant to G.S. §§ 163-84 and 163-87, pre-registration for 16 and 17 year olds, or the process of reviewing and counting provisional ballots.

REQUEST FOR PRODUCTION NO. 12:

All documents and communications referring or relating to any estimate, report, study, or analysis of the number of registered voters who do not have one or more of the forms of photo identification acceptable to vote under H.B. 589.

REQUEST FOR PRODUCTION NO. 13:

All documents and communications referring or relating to estimates, reports, studies, or analyses of the cost to voters to secure documents required to obtain photo identification under H.B. 589.

REQUEST FOR PRODUCTION NO. 14:

All documents and communications referring or relating to a comparison of the State of North Carolina's registered voter database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have NCDOT issued ID.

REQUEST FOR PRODUCTION NO. 15:

All documents and communications referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, early voting, or potential increased waiting times at polls.

REQUEST FOR PRODUCTION NO. 16:

All documents and communications relating to the cost or expense of administering local, state, and federal elections in North Carolina in each future election year from 2014 forward.

REQUEST FOR PRODUCTION NO. 17:

All documents and communications relating to the costs or expense of administering local, state, and federal elections in North Carolina in each election year from 2000 to the 2013.

REQUEST FOR PRODUCTION NO. 18:

The North Carolina “Voter File,” including the file of all registered voters in the State including full name, address, and date of birth, provided in a reasonably accessible, searchable, and sortable electronic format (including Excel or other database-compatible format but not including paper or portable document format (.pdf)).

REQUEST FOR PRODUCTION NO. 19:

All documents and communications related to the number of voters who participated in same-day registration since 2007, including the precinct, race, ethnicity, age, gender, and any other identifying voter information.

REQUEST FOR PRODUCTION NO. 20:

All documents and communications related to the number of voters who voted on each individual day of the early voting period since 2000, including the precinct, race, ethnicity, age, gender, and any other identifying voter information.

REQUEST FOR PRODUCTION NO. 21:

All documents and communications related to the acceptance rate of provisional ballots since 2000, including but not limited to documents sufficient to show the reasons provisional

ballots were cast, accepted or rejected.

REQUEST FOR PRODUCTION NO. 22:

All documents and communications relating to training provided to pollworkers on the casting of provisional ballots by out-of-precinct voters since 2008, including documents and communications relating to training that may be provided pollworkers in 2014.

REQUEST FOR PRODUCTION NO. 23:

All documents and communications related to the use of out-of-precinct voting since 2000, including the precinct, race, age, gender, and any other identifying information of voters who participated in out-of-precinct voting.

REQUEST FOR PRODUCTION NO. 24:

All documents and communications related to the number of ballots challenged by poll observers since 2000, including precinct locations for each challenge and whether or not the challenges were ultimately determined to be valid.

REQUEST FOR PRODUCTION NO. 25:

All documents and communications related to voters who were challenged on Election Day or before Election Day pursuant to G.S. §§ 163-84 and 163-87, respectively, since 2000, including the reason for each challenge; whether reported to you by a local board or otherwise brought to your attention, easily obtainable by you from a local board, or the subject of an appeal to you.

REQUEST FOR PRODUCTION NO. 26:

All documents and communications related to the individuals or organizations that have challenged voters pursuant to G.S. §§ 163-84 and 163-87 since 2000, including the reasons for

each challenge; whether reported to you by a local board or otherwise brought to your attention, easily obtainable by you from a local board, or the subject of an appeal to you.

REQUEST FOR PRODUCTION NO. 27:

All documents and communications related to the number of pollworkers, by county, employed during the early voting period and on Election Day for the last five years.

REQUEST FOR PRODUCTION NO. 28:

All documents and communications relating to any data tracking, recording, or study of voting patterns by race.

REQUEST FOR PRODUCTION NO. 29:

All documents and communications related to the number of voting jurisdictions that extended voting to 5 p.m. on the Saturday before election during 2004, 2006, 2008, 2010, and 2012.

REQUEST FOR PRODUCTION NO. 30:

All documents and communications relating to the average waiting time of voters during the 2006, 2008, 2010, and 2012 elections.

REQUEST FOR PRODUCTION NO. 31:

All documents and communications relating to complaints or instances of long lines or waiting times during early voting and Election Day in any county in the state during the 2006, 2008, 2010, and 2012 elections.

REQUEST FOR PRODUCTION NO. 32:

All documents and communications relating to the number of county boards of elections

that have requested to decrease the cumulative number of hours for early voting, and the number of such requests that have been granted.

REQUEST FOR PRODUCTION NO. 33:

All documents and communications provided by the State Board of Elections to local and county boards of elections relating to the calculation and maintenance of aggregate number of early voting hours in the 2010 general election for the 2014 general election under G.S. §§ 163-227.2(g2).

REQUEST FOR PRODUCTION NO. 34:

All documents and communications relating to the aggregate number of hours, as calculated under G.S. §§ 163-227.2(g2), for the May 2010 primary elections for each county in the state.

REQUEST FOR PRODUCTION NO. 35:

All documents and communications relating to the number of polling places open on Election Day in the May 2010 primary elections, including the hours that each polling place was open, in each county in the state.

REQUEST FOR PRODUCTION NO. 36:

All documents and communications related to the counties and precincts that conducted early voting on any Sunday that fell within the early voting period permitted under North Carolina law for each election from 2008 to the present.

REQUEST FOR PRODUCTION NO. 37:

All documents and communications relating to each county's early voting plan for the May 2014 primaries, including the number of sites open and the number of hours each site will

be open during early voting.

REQUEST FOR PRODUCTION NO. 38:

All documents and communications relating to the number of polling places that will be open for the May 2014 primaries, including the hours that each polling place will be open, in each county in the state.

REQUEST FOR PRODUCTION NO. 39:

All documents and communications sufficient to identify, from each election from 2000 to present, the rates by precinct of straight ticket voting.

REQUEST FOR PRODUCTION NO. 40:

All documents and communications referring or relating to any estimate, report, study, or analysis regarding straight ticket voting in North Carolina from 2000 to the present.

REQUEST FOR PRODUCTION NO. 41:

All documents and communications sufficient to identify, for each election from 2008 to the present, number of people between the age of 16-18 who pre-registered to vote, including the race, age, gender, and any other identifying information of voters who pre-registered to vote.

REQUEST FOR PRODUCTION NO. 42:

All documents and communications relating to Defendants' plans and efforts to educate citizens of North Carolina as to the provisions of H.B. 589.

REQUEST FOR PRODUCTION NO. 43:

All documents and communications relating to information Defendants prepared or provided for use in a submission to the Department of Justice pursuant to Section 5 of the Voting

Rights Act from 2000 to the present.

REQUEST FOR PRODUCTION NO. 44:

Any document retention policies that were in effect at the State Board of Elections from 2012 to the present concerning the preservation of public records.

REQUEST FOR PRODUCTION NO. 45:

Any litigation hold notices issued to the State Board of Elections, or its representatives, in connection with the above captioned cases, *North Carolina State Conference of the NAACP, et al. v. McCrory, et al.* and *League of Women Voters of N.C., et al. v. North Carolina.*

REQUEST FOR PRODUCTION NO. 46:

All documents and communications relating to the claims and defenses you have raised or intend to raise in response to the Complaint, including all communications and/or documents on which you intend to rely on at trial or otherwise in this case.

REQUEST FOR PRODUCTION NO. 47:

All documents and communications relating to financial data, budgets, or monetary effects of House Bill 589, prepared by any State Board of Elections official or staff member.

REQUEST FOR PRODUCTION NO. 48:

All documents and communications relating to financial data, budgets, or monetary effects of House Bill 589, sent or presented to any State Board of Elections official or staff member by any person or entity.

Dated: December 2, 2013

Respectfully submitted,

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Dated: December 2, 2013

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By: /s/ Anita S. Earls

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Attorneys for Plaintiffs in League of Women Voters of North Carolina, et al. v. North Carolina, et al.

CERTIFICATE OF SERVICE

I, Daniel T. Donovan, hereby certify that on **November 27, 2013**, I served Plaintiffs' **First Set of Requests for Production to Defendants Members of the North Carolina State Board of Elections** via email and Fed Ex to all named parties below:

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

NORTH CAROLINA STATE CONFERENCE OF)
 THE NAACP, EMMANUEL BAPTIST CHURCH,)
 NEW OXLEY HILL BAPTIST CHURCH,)
 BETHEL A. BAPTIST CHURCH, COVENANT)
 PRESBYTERIAN CHURCH, CLINTON)
 TABERNACLE AME ZION CHURCH,)
 BARBEE’S CHAPEL MISSIONARY BAPTIST)
 CHURCH, INC., ROSANELL EATON,)
 ARMENTA EATON, CAROLYN COLEMAN,)
 BAHEEYAH MADANY, JOCELYN FERGUSON-)
 KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,

v.

PATRICK LLOYD MCCRORY, in his official)
 capacity as the Governor of North Carolina, KIM)
 WESTBROOK STRACH, in her official capacity as)
 Executive Director of the North Carolina State)
 Board of Elections, JOSHUA B. HOWARD, in his)
 official capacity as Chairman of the North Carolina)
 State Board of Elections, RHONDA K. AMOROSO,)
 in her official capacity as Secretary of the North)
 Carolina State Board of Elections, JOSHUA D.)
 MALCOLM, in his official capacity as a member of)
 the North Carolina State Board of Elections, PAUL)
 J. FOLEY, in his official capacity as a member of)
 the North Carolina State Board of Elections and)
 MAJA KRICKER, in her official capacity as a)
 member of the North Carolina State Board of)
 Elections,)

Defendants.

**PLAINTIFFS’ NOTICE OF
SUBPOENAS**

Case No.: 1:13-CV-658

PLEASE TAKE NOTICE, pursuant to Federal Rule of Civil Procedure 45, that Plaintiffs in *North Carolina State Conference of the NAACP, et al. v. McCrory, et al.*, intend to serve Subpoenas, in the forms attached hereto, on the Civitas Institute, the John Locke Foundation, the North Carolina Department of Transportation, Representative James Boles, Jr., Representative

David Lewis, Representative Tim Moore, Representative Tom Murry, Representative Larry Pittman, Representative Ruth Samuelson, Representative Thom Tillis, Representative Harry Warren, Senator Tom Apodaca, Senator Phil Berger, Senator Thom Goolsby, Senator Ralph Hise, Senator Bob Rucho, and the Voter Integrity Project, on December 5, 2013 or as soon thereafter as service may be effectuated.

Dated: December 4, 2013

Respectfully submitted,

By: /s/ Adam Stein

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UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: The Civitas Institute, 100 South Harrington Street, Raleigh, NC 27603

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Table with 2 columns: Place (Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516) and Date and Time (01/20/2014 10:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature lines for Clerk of Court and Attorney (Adam Stein)

The name, address, e-mail address, and telephone number of the attorney representing (name of party) North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com 919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE’S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ FIRST SET OF REQUEST FOR PRODUCTION TO
THE CIVITAS INSTITUTE**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to The

Civitas Institute. In accordance with Rule 45, The Civitas Institute shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages);

from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during the One-Stop early voting period.

1. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

2. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

3. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to

produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

4. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote in person prior to Election Day.

5. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

6. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

7. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

8. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

9. “Photo identification” shall mean a photo identification card that meets the requirements to vote set forth in H.B. 589.

10. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the close of discovery in the above captioned matter.

11. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

12. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

13. “You” means The Civitas Institute and Civitas Action and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the Civitas, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by You that reflect or discuss the rationale or purpose for enacting any provision in H.B. 589.

REQUEST FOR PRODUCTION NO. 2:

All documents concerning communications between You and any legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All documents concerning communications between You and the Office of the Governor of North Carolina regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All documents concerning communications between You and any North Carolina state agency, including but not limited to the State Board of Elections, Department of Transportation, or Division of Motor Vehicles regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 5:

All documents concerning communications between You and any lobbyists, political organizations, or public interest groups in North Carolina regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 6:

All documents and communications referring or relating to any estimate, research, report, study, or analysis received or created by You related to any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications related to any polls or surveys conducted by You related to any provision in H.B. 589 or any other election legislation that was proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications related to any database or other electronic data created by You in connection with the Moral Monday movement in North Carolina.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications related to any training programs held or sponsored by You from 2010 to the present.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
ADVANCEMENT PROJECT
Suite 850
1220 L Street, N.W.
Washington, DC 20005
Telephone: (202) 728-9557
E-mail: phair@advancementproject.com

Irving Joyner (N.C. State Bar # 7830)
P.O. Box 374
Cary, NC 27512
Telephone: (919) 319-8353
E-mail: ijoyner@ncsu.edu

By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
Of Counsel
TIN FULTON WALKER & OWEN, PLLC
312 West Franklin Street
Chapel Hill, NC 27516
Telephone: (919) 240-7089
E-mail: astein@tinfulton.com

Thomas D. Yannucci
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K. Winn Allen
Uzoma Nkwonta
Kim Knudson
Anne Dechter
Jodi Wu
KIRKLAND & ELLIS LLP
655 Fifteenth St., N.W.
Washington, DC 20005
Telephone: (202) 879-5000
E-mail: tyannucci@kirkland.com

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: The John Locke Foundation, 200 West Morgan Street, Suite 200, Raleigh, NC 27601

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Table with 2 columns: Place (Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516) and Date and Time (01/20/2014 10:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Adam Stein Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com 919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE’S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
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Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ FIRST SET OF REQUESTS FOR PRODUCTION TO
THE JOHN LOCKE FOUNDATION**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to the John

Locke Foundation. In accordance with Rule 45, the John Locke Foundation shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all

persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

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where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day.
2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.
3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.
4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication

or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the close of discovery in the above captioned matter.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means the John Locke Foundation and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the John Locke Foundation, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by the John Locke Foundation that reflect or discuss the rationale or purpose for enacting any provision in H.B. 589.

REQUEST FOR PRODUCTION NO. 2:

All documents concerning communications between the John Locke Foundation and any legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All documents concerning communications between the John Locke Foundation and the Office of the Governor of North Carolina regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All documents concerning communications between the John Locke Foundation and any North Carolina state agency, including but not limited to the State Board of Elections, Department of Transportation, or Division of Motor Vehicles regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 5:

All documents concerning communications between the John Locke Foundation and any lobbyists, political organizations, or public interest groups in North Carolina regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 6:

All documents and communications referring or relating to any publications received or created by the John Locke Foundation in the Carolina Journal relating to H.B. 589, including any estimates, reports, research, studies, or analysis supporting such articles.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications referring or relating to any estimate, research, report, study, or analysis received or created by the John Locke Foundation related to any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications related to any polls or surveys conducted by the John

Locke Foundation related to any provision in H.B. 589 or any other election legislation that was proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications related to any training programs held or sponsored by the John Locke Foundation from 2010 to the present.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
ADVANCEMENT PROJECT
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By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
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UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: North Carolina Department of Transportation, 1 South Wilimington Street, Raleigh, NC 27601

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516	Date and Time: 01/20/2014 10:00 am
--	---------------------------------------

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

*/s/ Adam Stein
Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

North Carolina State Conference of the NAACP, et al. _____, who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com
919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE’S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ REQUEST FOR PRODUCTION TO THE NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit its first set of requests for the production of documents and tangible things to the North

Carolina Department of Transportation. In accordance with Rule 45, the North Carolina Department of Transportation shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all

persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages

where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during the One-Stop early voting period.
2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.
3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.
4. “DMV” means the Division of Motor Vehicles.
5. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry,

calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

6. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

7. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

8. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

9. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

10. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

11. “Photo identification” shall mean a photo identification card that meets the requirements to vote set forth in H.B. 589.

12. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the close of discovery in the above captioned matter.

13. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

14. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

15. “You” means the NCDOT and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of the NCDOT, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications relating to the implementation of H.B. 589, or plans for implementation of H.B. 589, including but not limited to training materials, guidance documents, and other instructions issued to or by the NCDOT.

REQUEST FOR PRODUCTION NO. 2:

All documents reflecting communications between NCDOT and (i) legislators in the North Carolina General Assembly or (ii) the office of the Governor of North Carolina regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All documents reflecting communications between NCDOT and any North Carolina state agency regarding any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All documents and communications relating to the process for obtaining state issued identification before and after January 1, 2014, including but not limited to documents and fees necessary to obtain such identification.

REQUEST FOR PRODUCTION NO. 5:

All documents and communications that refer or relate to any estimate, report, study, or analysis related to the photo identification requirement set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 6:

All documents and communications that refer or relate to the cost of implementing the photo identification requirement set forth in H.B. 589, including but not limited to the cost of issuing state issued identification at no cost.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications that refer or relate to additional resources, including but not limited to any additional budget allocations and/or manpower allocations, received by the DMV to implement H.B. 589.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications that list North Carolina citizens with state issued identification or that refer or relate to a comparison of the State of North Carolina's registered voter database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have an NCDOT-issued ID.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications related to the accessibility of DMV locations in North Carolina, including operational hours, distance from rural populations, and studies regarding accessibility.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications related to DMV mobile units, including any studies, completed or ongoing, related to the use of DMV mobile units.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
ADVANCEMENT PROJECT
Suite 850
1220 L Street, N.W.
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Irving Joyner (N.C. State Bar # 7830)
P.O. Box 374
Cary, NC 27512
Telephone: (919) 319-8353
E-mail: ijoyner@nccu.edu

By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
Of Counsel
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UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Representative James Boles, Jr.

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Table with 2 columns: Place (Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516) and Date and Time (01/20/2014 10:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Adam Stein Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com 919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE’S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ FIRST SET OF REQUEST FOR PRODUCTION TO
REPRESENTATIVE JAMES BOLES, JR.**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to Rep. James Boles,

Jr. In accordance with Rule 45, Rep. James Boles, Jr. shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for

electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.

2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means Representative James Boles, Jr. and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other

corporate affiliates of Representative Boles, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

15. “Procedural irregularities” shall mean any legislative processes outside of standard floor debate, amendments, tabling procedures, and passage by majority vote.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by you concerning the rationale, purpose, implementation, and/or text of H.B. 589.

REQUEST FOR PRODUCTION NO. 2:

All documents concerning communications between you and your constituents regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All documents concerning communications between you and any other legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All documents concerning communications between you and the office of the Governor of North Carolina regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 5:

All documents concerning communications between you and any North Carolina state

agency regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 6:

All documents concerning communications between you and any lobbyists, political organizations, or public interest groups regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications received or created by you relating to reports or data issued by the State Board of Elections concerning proposed, debated, or enacted voting legislation during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of the number, race, and/or ethnicity of registered voters who do not have any of form of photo identification that is acceptable to vote under H.B. 589.

REQUEST FOR PRODUCTION NO. 11:

All documents and communications received or created by you referring or relating to estimates, reports, studies, or analyses of (i) the costs to voters to secure documents required to obtain the photo identification required to vote as set forth in H.B. 589; or (ii) the costs or expense to the State of North Carolina associated with implementing the photo identification requirement set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 12:

All documents and communications received or created by you referring or relating to a comparison of the State of North Carolina's voter registration database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have an NCDOT-issued ID.

REQUEST FOR PRODUCTION NO. 13:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

REQUEST FOR PRODUCTION NO. 14:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 15:

All documents and communications received or created by you relating to the cost or expense, including any estimates or analyses, of administering any provision in H.B. 589 or any

election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 16:

All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

REQUEST FOR PRODUCTION NO. 17:

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
ADVANCEMENT PROJECT
Suite 850
1220 L Street, N.W.
Washington, DC 20005
Telephone: (202) 728-9557
E-mail: phair@advancementproject.com

Irving Joyner (N.C. State Bar # 7830)
P.O. Box 374
Cary, NC 27512
Telephone: (919) 319-8353
E-mail: ijoyner@ncsu.edu

By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
Of Counsel
TIN FULTON WALKER & OWEN, PLLC
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UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Representative David Lewis

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Table with 2 columns: Place (Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516) and Date and Time (01/24/2014 9:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Adam Stein Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com 919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
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CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

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WESTBROOK STRACH, in her official capacity as)
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Board of Elections, JOSHUA B. HOWARD, in his)
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State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ FIRST SET OF REQUEST FOR PRODUCTION TO
REPRESENTATIVE DAVID LEWIS**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs

submit their first set of requests for the production of documents and tangible things to Rep. David Lewis. In accordance with Rule 45, Rep. David Lewis shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

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persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

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where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

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2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.
3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.
4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication

or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means Representative David Lewis and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of Representative Lewis, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

15. “Procedural irregularities” shall mean any legislative processes outside of standard floor debate, amendments, tabling procedures, and passage by majority vote.

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REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by you concerning the rationale, purpose, implementation, and/or text of H.B. 589.

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legislation during the 2013 session of the General Assembly.

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REQUEST FOR PRODUCTION NO. 11:

All documents and communications received or created by you referring or relating to estimates, reports, studies, or analyses of (i) the costs to voters to secure documents required to obtain the photo identification required to vote as set forth in H.B. 589; or (ii) the costs or expense to the State of North Carolina associated with implementing the photo identification requirement set forth in H.B. 589.

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All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

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All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair
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Denise D. Lieberman
Donita Judge
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By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
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UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Representative Tim Moore

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516	Date and Time: 01/20/2014 10:00 am
--	---------------------------------------

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Adam Stein

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

North Carolina State Conference of the NAACP, et al. _____, who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com
919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE’S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ FIRST SET OF REQUEST FOR PRODUCTION TO
REPRESENTATIVE TIM MOORE**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to Rep. Tim Moore.

In accordance with Rule 45, Rep. Tim Moore shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for

electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.

2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

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7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

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14. “You” means Representative Tim Moore and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other

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Dated: December 5, 2013

Respectfully submitted,

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By: /s/ Adam Stein

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UNITED STATES DISTRICT COURT

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Plaintiff

v.

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(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Table with 2 columns: Place (Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516) and Date and Time (01/20/2014 10:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Adam Stein Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

North Carolina State Conference of the NAACP, et al., who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com 919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE’S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ FIRST SET OF REQUEST FOR PRODUCTION TO
REPRESENTATIVE TOM MURRY**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs

submit their first set of requests for the production of documents and tangible things to Rep. Tom Murry. In accordance with Rule 45, Rep. Tom Murry shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all

persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages

where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.
2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.
3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.
4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication

or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means Representative Tom Murry and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other corporate affiliates of Representative Murry, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

15. “Procedural irregularities” shall mean any legislative processes outside of standard floor debate, amendments, tabling procedures, and passage by majority vote.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by you concerning the rationale, purpose, implementation, and/or text of H.B. 589.

REQUEST FOR PRODUCTION NO. 2:

All documents concerning communications between you and your constituents regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All documents concerning communications between you and any other legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All documents concerning communications between you and the office of the Governor of North Carolina regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 5:

All documents concerning communications between you and any North Carolina state agency regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 6:

All documents concerning communications between you and any lobbyists, political organizations, or public interest groups regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications received or created by you relating to reports or data issued by the State Board of Elections concerning proposed, debated, or enacted voting

legislation during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of the number, race, and/or ethnicity of registered voters who do not have any form of photo identification that is acceptable to vote under H.B. 589.

REQUEST FOR PRODUCTION NO. 11:

All documents and communications received or created by you referring or relating to estimates, reports, studies, or analyses of (i) the costs to voters to secure documents required to obtain the photo identification required to vote as set forth in H.B. 589; or (ii) the costs or expense to the State of North Carolina associated with implementing the photo identification requirement set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 12:

All documents and communications received or created by you referring or relating to a comparison of the State of North Carolina's voter registration database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have an NCDOT-issued ID.

REQUEST FOR PRODUCTION NO. 13:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

REQUEST FOR PRODUCTION NO. 14:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 15:

All documents and communications received or created by you relating to the cost or expense, including any estimates or analyses, of administering any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 16:

All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

REQUEST FOR PRODUCTION NO. 17:

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
ADVANCEMENT PROJECT
Suite 850
1220 L Street, N.W.
Washington, DC 20005
Telephone: (202) 728-9557
E-mail: phair@advancementproject.com

Irving Joyner (N.C. State Bar # 7830)
P.O. Box 374
Cary, NC 27512
Telephone: (919) 319-8353
E-mail: ijoyner@ncsu.edu

By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
Of Counsel
TIN FULTON WALKER & OWEN, PLLC
312 West Franklin Street
Chapel Hill, NC 27516
Telephone: (919) 240-7089
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655 Fifteenth St., N.W.
Washington, DC 20005
Telephone: (202) 879-5000
E-mail: tyannucci@kirkland.com

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Representative Larry Pittman

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516	Date and Time: 01/20/2014 10:00 am
--	---------------------------------------

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

*/s/ Adam Stein
Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

North Carolina State Conference of the NAACP, et al. _____, who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com
919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
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(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
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- (i) fails to allow a reasonable time to comply;
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- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

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- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
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(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

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(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A

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

NORTH CAROLINA STATE CONFERENCE OF)
THE NAACP, EMMANUEL BAPTIST CHURCH,)
NEW OXLEY HILL BAPTIST CHURCH,)
BETHEL A. BAPTIST CHURCH, COVENANT)
PRESBYTERIAN CHURCH, CLINTON)
TABERNACLE AME ZION CHURCH,)
BARBEE’S CHAPEL MISSIONARY BAPTIST)
CHURCH, INC., ROSANELL EATON,)
ARMENTA EATON, CAROLYN COLEMAN,)
BAHEEYAH MADANY, JOCELYN FERGUSON-)
KELLY, FAITH JACKSON, and MARY PERRY,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

PATRICK LLOYD MCCRORY, in his official)
capacity as the Governor of North Carolina, KIM)
WESTBROOK STRACH, in her official capacity as)
Executive Director of the North Carolina State)
Board of Elections, JOSHUA B. HOWARD, in his)
official capacity as Chairman of the North Carolina)
State Board of Elections, RHONDA K. AMOROSO,)
in her official capacity as Secretary of the North)
Carolina State Board of Elections, JOSHUA D.)
MALCOLM, in his official capacity as a member of)
the North Carolina State Board of Elections, PAUL)
J. FOLEY, in his official capacity as a member of)
the North Carolina State Board of Elections and)
MAJA KRICKER, in her official capacity as a)
member of the North Carolina State Board of)
Elections,)

Defendants.

**PLAINTIFFS’ FIRST SET OF REQUEST FOR PRODUCTION TO
REPRESENTATIVE LARRY PITTMAN**

Pursuant to Rules 26, 34, and 45 of the Federal Rules of Civil Procedure, Plaintiffs submit their first set of requests for the production of documents and tangible things to Rep. Larry Pittman.

In accordance with Rule 45, Rep. Larry Pittman shall respond to these requests for production and shall produce the documents requested. Responses are to be served to Tin Fulton Walker & Owen, PLLC, 312 West Franklin Street, Chapel Hill, NC 27516, to the attention of Adam Stein, within forty-five days of service of these requests for production. Each document request is subject to the Instructions and Definitions preceding the specific requests.

INSTRUCTIONS

1. If You object to any part of a request, set forth the basis for Your objection and respond to all parts of the request to which You do not object.

2. If any privilege is claimed as a ground for not producing a document or tangible thing, provide a description of the basis of the claimed privilege and all information necessary for the Plaintiffs to assess the claim of privilege.

3. In responding to these document requests, produce all documents available to You or subject to Your reasonable access or control. Documents requested are those in the actual or constructive possession or control of You, Your attorneys, investigators, experts, and anyone else acting on Your behalf.

4. Documents are to be produced as they are kept in the ordinary course of business.

5. Each request seeks the requested documents in their entirety, without abbreviation, redaction, or expurgation, including all attachments or other matters affixed to them.

6. If any otherwise responsive document was, but is no longer, in existence or in Your possession, custody, or control, identify the type of information contained in the document, its current or last known custodian, the location/address of such document, and the identity of all persons having knowledge or who had knowledge of the document, and also describe in full the circumstances surrounding its disposition from Your possession or control.

7. All responsive documents in existence as of the date of production are to be produced. Any documents created or obtained after that date are to be produced under Your continuing obligation to supplement its production immediately upon the creation or development of additional responsive documents.

8. The singular form of a noun or pronoun includes the plural form, and the plural form includes the singular.

9. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of a request all responses that otherwise might be construed to be outside of its scope.

10. The relevant time period for these requests runs through the present, unless otherwise stated.

11. These document requests are continuing in nature, up to and during the course of any hearing in this proceeding. Documents and tangible things sought by these requests that You obtain after You serve Your answers must be produced to counsel for the Plaintiffs by supplementary answers or productions.

12. All documents are to be produced in electronic form. To the extent documents can be accurately represented in black and white, they should be produced in single page Tagged Image File Format (TIFF), together with any related field-delimited loadfiles (e.g. Concordance DAT, CSV, OPT, LOG). The following fields should be included in the loadfiles: begin Bates number; end Bates number; begin Attachment Bates number; end Attachment Bates number; custodian; date sent (for e-mail messages); date modified (for email and non-email messages where information is available); date created (for email and non-email messages where information is available); author (for email and non-email messages); to (for email messages); from (for email messages); cc (for email messages); bcc (for email messages); subject (for email messages); filename (for

electronically collected files); filepathway (for electronically collected files). All images should be endorsed with a unique Bates number as well as appropriate confidentiality designation. The Bates number should consist of a prefix which can be used to identify the producing party and a page number. These endorsements should not obstruct any portion of the text in the image. All spreadsheet and presentation files, such as Excel and PowerPoint files, should be provided in native format with a link to the native file in the loadfile.

DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.

2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

6. “H.B. 589” shall refer to Session Law 2013-381/House Bill 589 ratified by the General Assembly on July 26, 2013 and signed into law by the Governor on August 12, 2013.

7. “In-person voter fraud” shall mean attempted fraudulent voting by means of a person claiming to be someone else in order to vote at a polling place in person on election day.

8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

9. “NCDOT” shall mean the North Carolina Department of Transportation, including the Division of Motor Vehicles.

10. “Photo identification” shall mean a photo identification card that meets the requirements to vote as set forth in H.B. 589.

11. “Registered voter” shall mean all persons currently registered to vote in the State of North Carolina’s database and all persons who may properly register to vote by the the close of discovery in this case.

12. “Relating to” as used herein means concerning, referring to, reflecting, regarding, describing, evidencing, or constituting.

13. “Same day registration” refers to the provisions of N.C. Gen. Stat. § 163-82.6A before it was repealed by H.B. 589, which permitted qualified voters to register to vote in person and then vote at one-stop voting sites located in each county.

14. “You” means Representative Larry Pittman and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other

corporate affiliates of Representative Pittman, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

15. “Procedural irregularities” shall mean any legislative processes outside of standard floor debate, amendments, tabling procedures, and passage by majority vote.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by you concerning the rationale, purpose, implementation, and/or text of H.B. 589.

REQUEST FOR PRODUCTION NO. 2:

All documents concerning communications between you and your constituents regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All documents concerning communications between you and any other legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All documents concerning communications between you and the office of the Governor of North Carolina regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 5:

All documents concerning communications between you and any North Carolina state

agency regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 6:

All documents concerning communications between you and any lobbyists, political organizations, or public interest groups regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications received or created by you relating to reports or data issued by the State Board of Elections concerning proposed, debated, or enacted voting legislation during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of the number, race, and/or ethnicity of registered voters who do not have any form of photo identification that is acceptable to vote under H.B. 589.

REQUEST FOR PRODUCTION NO. 11:

All documents and communications received or created by you referring or relating to estimates, reports, studies, or analyses of (i) the costs to voters to secure documents required to obtain the photo identification required to vote as set forth in H.B. 589; or (ii) the costs or expense to the State of North Carolina associated with implementing the photo identification requirement set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 12:

All documents and communications received or created by you referring or relating to a comparison of the State of North Carolina's voter registration database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have an NCDOT-issued ID.

REQUEST FOR PRODUCTION NO. 13:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

REQUEST FOR PRODUCTION NO. 14:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 15:

All documents and communications received or created by you relating to the cost or

expense, including any estimates or analyses, of administering any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 16:

All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

REQUEST FOR PRODUCTION NO. 17:

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

Penda D. Hair
Edward A. Hailes, Jr.
Denise D. Lieberman
Donita Judge
Caitlin Swain
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By: /s/ Adam Stein

Adam Stein (N.C. State Bar # 4145)
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UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Representative Ruth Samuelson

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516	Date and Time: 01/20/2014 10:00 am
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Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

*/s/ Adam Stein
Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

North Carolina State Conference of the NAACP, et al. _____, who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com
919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

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DEFINITIONS

1. “Absentee ballot” shall mean a paper ballot issued to a voter who is unable to attend a polling place in person on Election Day or during Early Voting.

2. “Concerning” as used herein means relating to, referring to, reflecting, regarding, describing, evidencing, or constituting.

3. “Communication” means any transfer of information of any type, whether written, oral, electronic, or otherwise.

4. “Document” means the complete original or a true, correct and complete copy and any non-identical copies of any written or graphic manner, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, electronic mail, computer file, meeting minute, memorandum, statement, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, data processing card, database, printout, microfilm, index, appointment book, diary, diary entry, calendar, calendar entry, desk pad, telephone message slip, note of interview or communication or any other data compilation in Your possession, custody or control, including all drafts of all such documents, and all documents You have provided to Your counsel. You are requested to produce all drafts and notes, whether typed, handwritten, or otherwise, made or prepared in connection with such documents, whether or not used.

5. “Early Voting” shall mean one-stop voting whereby a registered voter goes to their county board of elections or an alternative location to vote prior to Election Day.

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8. “Legislator” shall mean any member of the North Carolina General Assembly and any of his or her employees, agents, representatives, or other personnel involved in the functions or duties of the political office of that member.

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14. “You” means Representative Ruth Samuelson and all of Your employees, agents, or representatives, its counsel, and all employees, agents, or representatives of counsel. “You” shall further include all predecessors in interest, parents, subsidiaries, partners, joint ventures, or other

corporate affiliates of Representative Samuelson, and all of their employees, agents, or representatives, their counsel, and all employees, agents, or representatives of counsel.

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REQUEST FOR PRODUCTION NO. 1:

All documents and communications received or created by you concerning the rationale, purpose, implementation, and/or text of H.B. 589.

REQUEST FOR PRODUCTION NO. 2:

All documents concerning communications between you and your constituents regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 3:

All documents concerning communications between you and any other legislator in the North Carolina General Assembly regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 4:

All documents concerning communications between you and the office of the Governor of North Carolina regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 5:

All documents concerning communications between you and any North Carolina state

agency regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 6:

All documents concerning communications between you and any lobbyists, political organizations, or public interest groups regarding any provision in H.B. 589 or any other election law proposed during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 7:

All documents and communications received or created by you concerning procedural irregularities in enacting H.B. 589.

REQUEST FOR PRODUCTION NO. 8:

All documents and communications received or created by you related to any incident of in-person voter fraud or any incident of voter fraud involving absentee ballots from 1995 to the present.

REQUEST FOR PRODUCTION NO. 9:

All documents and communications received or created by you relating to reports or data issued by the State Board of Elections concerning proposed, debated, or enacted voting legislation during the 2013 session of the General Assembly.

REQUEST FOR PRODUCTION NO. 10:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of the number, race, and/or ethnicity of registered voters who do not have any form of photo identification that is acceptable to vote under H.B. 589.

REQUEST FOR PRODUCTION NO. 11:

All documents and communications received or created by you referring or relating to estimates, reports, studies, or analyses of (i) the costs to voters to secure documents required to obtain the photo identification required to vote as set forth in H.B. 589; or (ii) the costs or expense to the State of North Carolina associated with implementing the photo identification requirement set forth in H.B. 589.

REQUEST FOR PRODUCTION NO. 12:

All documents and communications received or created by you referring or relating to a comparison of the State of North Carolina's voter registration database with NCDOT records, including but not limited to any such documents that provide a subset of registered voters who do not have an NCDOT-issued ID.

REQUEST FOR PRODUCTION NO. 13:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of H.B. 589's impact on future elections, including the impact of H.B. 589 on voter turnout, one-stop absentee voting (early voting), and/or potential increased waiting times at polls.

REQUEST FOR PRODUCTION NO. 14:

All documents and communications received or created by you referring or relating to any estimate, report, study, or analysis of any provision in H.B. 589 or any election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 15:

All documents and communications received or created by you relating to the cost or expense, including any estimates or analyses, of administering any provision in H.B. 589 or any

election law proposed or enacted during the 2013 session of the North Carolina General Assembly.

REQUEST FOR PRODUCTION NO. 16:

All documents and communications received or created by you relating to the costs or expense of election administration for local, state, and federal elections, before the implementation of H.B. 589.

REQUEST FOR PRODUCTION NO. 17:

All documents and communications received or created by you relating to any data tracking, recording, and/or studying voting patterns by race.

Dated: December 5, 2013

Respectfully submitted,

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UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina State Conference of the NAACP, et al

Plaintiff

v.

Patrick Lloyd McCrory, et al.

Defendant

Civil Action No. 1:13-CV-658

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Representative Thom Tillis

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A.

Place: Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516	Date and Time: 01/20/2014 10:00 am
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Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/05/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

*/s/ Adam Stein
Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

North Carolina State Conference of the NAACP, et al. _____, who issues or requests this subpoena, are:

Adam Stein, Tin Fulton Walker & Owen, 312 West Franklin Street, Chapel Hill, NC 27516; astein@tinfulton.com
919-240-7089

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 1:13-CV-658

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A