

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

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

Plaintiffs,)

v.)

Case No.: 1:13-CV-658

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

Defendants.)

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

Plaintiffs,)

v.)

Case No.: 1:13-CV-660

THE STATE OF NORTH CAROLINA, et al.,)

Defendants.)

UNITED STATES OF AMERICA,)

Plaintiffs,)

v.)

Case No.: 1:13-CV-861

THE STATE OF NORTH CAROLINA, et al,)

Defendants.)

**PLAINTIFFS' MOTION TO STRIKE THE DECLARATIONS OF
SEAN P. TRENDE AND MOTION IN LIMINE TO EXCLUDE HIS
TESTIMONY AT TRIAL**

Pursuant to Federal Rule of Evidence 702, Plaintiffs and Intervenor-Plaintiffs in *League of Women Voters of North Carolina v. North Carolina*, and Plaintiffs in *North Carolina State Conference of the NAACP v. McCrory* (collectively, the “Plaintiffs”)¹ respectfully request that this Court strike the First Declaration of Sean P. Trende (ECF Nos. 138-5, 138-6, 138-7 (Case No. 1:13-CV-00660-TDS-JEP)), attached as Ex. 1 to the accompanying brief in support; strike the unsigned “Supplement to Declaration of Sean P. Trende,” attached as Ex. 2 to the accompanying brief; strike the March 16, 2015 Second Declaration of Sean P. Trende, attached as Ex. 3 to the accompanying brief; and exclude any testimony by Trende at trial. For the reasons set forth in the accompanying brief in support, Trende’s declarations and anticipated testimony do not meet the standards for expert testimony under Rule 702 and as established in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny.

Plaintiffs have conferred with Defendants regarding this motion and have been advised that Defendants oppose it.

¹ Plaintiff the United States of America supports this motion.

Dated: June 23, 2015

Respectfully submitted,

Laughlin McDonald*
ACLU Voting Rights Project
2700 International Tower
229 Peachtree Street, NE
Atlanta, GA 30303
(404) 500-1235
lmcdonald@aclu.org
* *appearing pursuant to Local Rule 83.1(d)*

By: /s/ Dale Ho

Dale Ho*
Julie A. Ebenstein*
Sophia Lin Lakin*
ACLU Voting Rights Project
125 Broad Street
New York, NY 10004
(212) 549-2693
dale.ho@aclu.org
**appearing pursuant to Local Rule 83.1(d)*

Christopher Brook (State Bar
#33838)
ACLU of North Carolina Legal
Foundation
P.O. Box 28004
Raleigh, NC 27611-8004
Telephone: 919-834-3466
Facsimile: 866-511-1344
E-mail: cbrook@acluofnc.org

/s/ Allison J. Riggs

Anita S. Earls (State Bar # 15597)
Allison J. Riggs (State Bar # 40028)
George Eppsteiner (State Bar # 42812)
Southern Coalition for Social Justice
1415 Highway 54, Suite 101
Durham, NC 27707
Telephone: 919-323-3380 ext. 115
Facsimile: 919-323-3942
E-mail: allisonriggs@southerncoalition.org

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

Dated: June 23, 2015

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
Phone: (202) 728-9557
phair@advancementproject.com

Irving Joyner (N.C. State Bar #
7830)
P.O. Box 374
Cary, NC 27512
Phone: (919)319-353
ijoyner@nccu.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
Phone: (919) 240-7089
astein@tinfulton.com

/s/ Daniel T. Donovan

Thomas D. Yannucci
Daniel T. Donovan
Susan M. Davies
Bridget K. O'Connor
K. Winn Allen
Uzoma Nkwonta
Kim Knudson
Jodi Wu
KIRKLAND & ELLIS LLP
655 Fifteenth St., N.W.
Washington, DC 20005
Phone: (202) 879-5000
tyannucci@kirkland.com

Attorneys for Plaintiffs in North Carolina Conference of NAACP, et al. v. McCrory, et al.

Dated: June 23, 2015

Respectfully submitted,

/s/ John M. Devaney

John M. Devaney
PERKINS COIE LLP
D.C. Bar No. 375465
JDevaney@perkinscoie.com
Marc E. Elias
D.C. Bar No. 442007
MElias@perkinscoie.com
Elisabeth C. Frost
D.C. Bar No. 1007632
EFrost@perkinscoie.com
700 Thirteenth Street, N.W., Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211

Joshua L. Kaul
Wisconsin Bar No. 1067529
JKaul@perkinscoie.com
1 East Main Street, Suite 201
Madison, WI 53705
Telephone: (608)294-4007
Facsimile: (608) 663-7499

Attorneys for Duke Plaintiff-Intervenors

/s/ Edwin M. Speas, Jr.

Edwin M. Speas, Jr.
POYNER SPRUILL LLP
N.C. State Bar No. 4112
espeas@poynerspruill.com
John W. O'Hale
N.C. State Bar No. 35895
johale@poynerspruill.com
Caroline P. Mackie
N.C. State Bar No. 41512
cmackie@poynerspruill.com
P.O. Box 1801 (27602-1801)
301 Fayetteville St., Suite 1900
Raleigh, NC 27601
Telephone: (919) 783-6400
Facsimile: (919) 783-1075

*Local Rule 83.1
Attorneys for Duke Plaintiff-Intervenors*

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2015, I served the foregoing Motion to Strike the Declarations of Sean P. Trende and Motion in Limine to Exclude his Testimony at Trial with the Clerk of Court using the CM/ECF system in case numbers 1:13-cv-658, 1:13-cv-660, and 1:13-cv-861, which on the same date sent notification of the filing to the following:

Counsel for Plaintiffs in North Carolina Conference of NAACP, et al. v. McCrory, et al.

Adam Stein
TIN FULTON WALKER & OWEN,
PLLC
312 West Franklin Street
Chapel Hill, NC 27516
Telephone: (919) 240-7089
Facsimile: (919) 240-7822
Email: astein@tinfulton.com

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

Daniel T. Donovan
Thomas D. Yannucci
Susan M. Davies
Bridget K. O'Connor
K. Winn Allen

Uzoma Nkwonta
Kimberly D. Rancour
Jodi Wu
KIRKLAND & ELLIS LLP
655 Fifteenth St., N.W.
Washington, DC 20005
Telephone: (202) 879-5174
Facsimile: (202) 879-5200
Email: daniel.donovan@kirkland.com

Irving Joyner, Esq.
PO Box 374
Cary, NC 27512
Email: ijoyner@ncu.edu

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

Anita S. Earls
Allison J. Riggs
Clare R. Barnett
SOUTHERN COALITION FOR
SOCIAL JUSTICE
1415 Highway 54, Suite 101
Durham, NC 27707
Telephone: (919) 323-3380 ext. 115
Facsimile: (919) 323-3942
Email: anita@southerncoalition.org

Christopher Brook
ACLU of NORTH CAROLINA LEGAL
FOUNDATION
P.O. Box 28004
Raleigh, NC 27611-8004
Telephone: (919) 834-3466
Facsimile: (866) 511-1344
Email: cbrook@acluofnc.org

Dale Ho
Julie A. Ebenstein
ACLU VOTING RIGHTS PROJECT
125 Broad Street
New York, NY 10004
Telephone: (212) 549-2693
Email: dale.ho@aclu.org

Laughlin McDonald
ACLU VOTING RIGHTS PROJECT
2700 International Tower
229 Peachtree Street, NE
Atlanta, GA 30303
Telephone: (404) 500-1235
Email: lmcdonald@aclu.org

**Counsel for Plaintiffs in US v. North
Carolina, et al.**

T. Christian Herren, Jr.
John A. Russ IV
Catherine Meza
David G. Cooper
Spencer R. Fisher
Elizabeth Ryan
Attorneys, Voting Section
Civil Rights Division
U.S. DEPARTMENT OF JUSTICE
Room 7254-NWB
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Telephone: (800) 253-3931

Facsimile: (202) 307-3961
Email: john.russ@usdoj.gov
Email: catherine.meza@usdoj.gov

Gill P. Beck (State Bar # 13175)
Special Assistant United States Attorney
OFFICE OF THE UNITED STATES
ATTORNEY
United States Courthouse
100 Otis Street
Asheville, NC 28801
Telephone: (828) 259-0645
Email: gill.beck@usdoj.gov

**Counsel for Defendant Patrick
McCrary**

Karl S. Bowers, Jr.
BOWERS LAW OFFICE LLC
P.O. Box 50549
Columbia, SC 29250
Telephone: (803) 260-4124
Facsimile: (803) 250-3985
Email: butch@butchbowers.com

Robert C. Stephens
General Counsel
OFFICE OF THE GOVERNOR OF
NORTH CAROLINA
20301 Mail Service Center
Raleigh, North Carolina 27699
Telephone: (919) 814-2027
Facsimile: (919) 733-2120
Email: bob.stephens@nc.gov

**Counsel for Defendants State of North
Carolina and Members of the State
Board of Elections**

Alexander Peters, Esq.
NC DEPARTMENT OF JUSTICE
PO Box 629

Raleigh, NC 27602
Telephone: (919) 716-6913
Facsimile: (919) 716-6763
Email: apeters@ncdoj.gov

Thomas A. Farr, Esq.
Phillip J. Strach, Esq.
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C
4208 Six Forks Road
Raleigh, NC 27609
Telephone: (919) 787-9700
Facsimile: (919)783-9412
Email:
thomas.farr@ogletreedeakins.com
Email: phil.strach@ogletreedeakins.com

Respectfully submitted,

/s/ Dale Ho

Dale Ho
ACLU Voting Rights Project
125 Broad Street
New York, NY 10004
(212) 549-2693
dale.ho@aclu.org

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

General Information

Court	United States District Court for the Middle District of North Carolina; United States District Court for the Middle District of North Carolina
Federal Nature of Suit	Civil Rights - Voting[441]
Docket Number	1:13-cv-00660