

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

---

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

Plaintiffs,

v.

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

Defendants.

---

**Case No.: 1:13-CV-658**

---

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

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

---

**Case No.: 1:13-CV-660**

---

UNITED STATES OF AMERICA,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al,

Defendants.

---

**Case No.: 1:13-CV-861**

**PLAINTIFFS' MOTION TO STRIKE PORTIONS OF THE DECLARATIONS  
AND MOTION IN LIMINE TO EXCLUDE CERTAIN TESTIMONY OF DR.  
JANET THORNTON AT TRIAL**

Pursuant to Federal Rule of Evidence 702 and the Supreme Court’s decision in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), Plaintiffs in *North Carolina State Conference of the NAACP, et al. v. McCrory, et al.*, Plaintiffs in *League of Women Voters of N.C., et al. v. North Carolina*, and the Duke Intervenor Plaintiffs (collectively, the “Plaintiffs”) respectfully move for an order excluding specific testimony offered by Dr. Janet Thornton (“Thornton”) and striking portions of her declarations for this case and the related supporting materials that relate to the topic of voter behavior. For the reasons set forth in the accompanying brief in support, portions of Dr. Thornton’s declarations and anticipated testimony do not meet the standards for expert testimony under Rule 702 and as established in *Daubert* and its progeny.

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

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  
Telephone: (202) 728-9557  
phair@advancementproject.com  
  
Irving Joyner (N.C. State Bar #  
7830)

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  
astein@tinfulton.com  
  
/s/ Daniel T. Donovan  
Daniel T. Donovan  
Susan M. Davies  
Bridget K. O’Connor  
K. Winn Allen  
Jodi Wu

P.O. Box 374  
Cary, NC 27512  
Telephone: (919)319-353  
ijoyner@nccu.edu

Christopher Maner  
Michael Glick  
Madelyn Morris  
Jennifer Basch  
KIRKLAND & ELLIS LLP  
655 Fifteenth St., N.W.  
Washington, DC 20005  
Telephone: (202) 879-5000  
daniel.donovan@kirkland.com

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

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/ Allison J. Riggs

Anita S. Earls (State Bar # 15597)  
Allison J. Riggs (State Bar # 40028)  
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

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/ Dale Ho

Dale Ho\*  
Julie A. Ebenstein\*  
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)*

*Attorneys for Plaintiffs in League of Women Voters of North Carolina, et al. v. North Carolina, 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 Plaintiffs' Motion to Strike Portions of the Declarations and Motion in Limine to Exclude Certain Testimony of Janet Thornton 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**

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](mailto:astein@tinfulton.com)

Penda D. Hair  
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](mailto:phair@advancementproject.com)

Daniel T. Donovan  
Susan M. Davies  
Bridget K. O'Connor  
K. Winn Allen  
Jodi Wu  
Christopher Maner  
Michael Glick  
Madelyn Morris  
Jennifer Basch

Kirkland & Ellis LLP  
655 Fifteenth St., N.W.  
Washington, DC 20005  
Telephone: (202) 879-5000  
daniel.donovan@kirkland.com

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

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

Anita S. Earls (State Bar # 15597)  
Allison J. Riggs (State Bar # 40028)  
Clare R. Barnett (State Bar #42678)  
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: anita@southerncoalition.org

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

Dale Ho\*  
Julie A. Ebenstein\*  
Sophia Lin Lakin\*  
ACLU VOTING RIGHTS PROJECT  
125 Broad Street  
New York, NY 10004  
Telephone: (212) 549-2693  
E-mail: dale.ho@aclu.org  
*\*appearing pursuant to Local Rule 83.1(d)*

Laughlin McDonald\*  
ACLU VOTING RIGHTS PROJECT  
2700 International Tower  
229 Peachtree Street, NE  
Atlanta, GA 30303  
Telephone: (404) 500-1235  
E-mail: lmcdonald@aclu.org  
*\*appearing pursuant to Local Rule 83.1(d)*

**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  
E-mail: john.russ@usdoj.gov  
E-mail: 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  
E-mail: gill.beck@usdoj.gov

**Counsel for Defendant Patrick McCrory**

Karl S. Bowers, Jr.  
BOWERS LAW OFFICE LLC  
P.O. Box 50549  
Columbia, SC 29250

Telephone: (803) 260-4124  
Facsimile: (803) 250-3985  
E-mail: 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  
E-mail: bob.stephens@nc.gov  
*Of Counsel*

**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  
E-mail: 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  
E-mail: thomas.farr@ogletreedeakins.com  
E-mail: phil.strach@ogletreedeakins.com



## General Information

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