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.	**NAACP PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO EXCLUDE CERTAIN REBUTTAL TESTIMONY BY DR. ALLAN LICHTMAN** Civil Action No. 1:13-CV-658
LEAGUE OF WOMEN VOTERS OF NORTH CAROLINA, ET AL., Plaintiffs, v. THE STATE OF NORTH CAROLINA, *et al.*, Defendants.	Civil Action No. 1:13-CV-660
UNITED STATES OF AMERICA, Plaintiff, v. THE STATE OF NORTH CAROLINA, *et al.*, Defendants.	Civil Action No. 1:13-cv-861

INTRODUCTION

Defendants' motion to exclude certain rebuttal testimony of Dr. Allan Lichtman improperly seeks to silence the Plaintiffs from responding to the State's late-filed, made-for-litigation analysis comparing the mail verification rates for voters registering via same-day registration and non-same-day registration. In 2013, the State Board of Elections produced a report reflecting the mail verification failure rates of North Carolina citizens who registered to vote during the 2012 election cycle. That report, which was the most recent report available to members of the North Carolina General Assembly during the consideration of H.B. 589, confirmed that individuals registering through same-day registration during both the 2012 primary and general election periods failed mail verification at a substantially *lower* rate than non-same-day registrants. *See* PX 68.

Unsatisfied with that report—which undermined one of the sole justifications advanced by the State for the elimination of same-day registration—the Defendants conducted a new analysis of 2012 voter registrations in advance of the July 2015 trial for litigation purposes. (Notably, while they undertook this historical re-analysis of 2012 registrations, Defendants maintain that they never undertook such an analysis for 2014 registrations, even though that data was both available and more timely.) Indeed, the Executive Director of the State Board of Elections ("SBOE"), Kim Strach, who commissioned the 2015 report on the 2012 data (and whose name it bears), readily admits

that the new analysis was conducted for litigation and that it was reviewed by Defendants' counsel prior to being completed and produced. 7/22/15 Tr. 136:1-22.[1]

After holding its analysis back under a claim of "work product privilege" for months, barely a month before trial—and well after the close of fact and expert discovery—the Defendants served on Plaintiffs their new, made-for-litigation analysis. *See* DX 16. Plaintiffs objected to this late-disclosed report, *see* ECF No. 308[2], and during the course of trial, the parties agreed that the new report could be admitted, subject to Ms. Strach and Brian Neesby, the SBOE employee who authored the re-analysis, being deposed on its contents, among other late-produced reports and documents by the Defendants. Crucially, Plaintiffs did not agree not to rebut that new analysis and testimony. The Strach and Neesby trial depositions occurred on Saturday, July 18, in the midst of trial, and those depositions were the first time Plaintiffs learned from Defendants either the methodology for this 2015 re-analysis of the 2012 data, or what Mr. Neesby's explanation would be for the basis for the new methodology.

During the Defendants' case-in-chief, they moved to admit the 2015 re-analysis and offered testimony regarding its contents through Ms. Strach and Mr. Neesby. *See* 7/29/15 Tr. 172:2-7, 174:22-25, 181:10-183:20. During cross-examination, the Plaintiffs elicited testimony from Defendants' witnesses reflecting several flaws in the revised report, including that several counties in 2012 did not initiate the mail verification process within 48 hours (as required by North Carolina law), 7/22/15 Tr. 144:20-146:2;

[1] Ms. Strach further confirmed that she did not draft any of the text for the report, nor did she collect, analyze, or verify any of the data in the report. 7/22/15 Tr. 137:16-138:2.
[2] All citations to docket entries are in Case No. 13-cv-158.

7/30/15 Tr. 18:19-19:7, the analysis did not inquire as to how many individuals who "failed" mail verification lived on North Carolina military bases or in homeless shelters, 7/22/15 Tr. 146:3-13, and the 2015 analysis omitted same-day registrants from at least two North Carolina counties, 7/30/15 Tr. 25:22-26:5.[3]

In addition to cross-examining the State's witnesses, the Plaintiffs sought in their rebuttal case to demonstrate that the comparison between the mail verification failure rates of same-day registrants and non-same-day registrants in DX 16—which was confined to a single election—was misleading. To do so, Plaintiffs introduced rebuttal analysis from Dr. Allan Lichtman, an expert from American University, who had been tendered earlier in trial as an expert in, *inter alia*, electoral analysis and quantitative methodology. 7/17/15 Tr. 95:3-8. Rather than re-analyze the data from a three-year old election (as the State had done), Dr. Lichtman sought to rebut the notion that same-day registration results in a higher mail verification failure rate than non-same-day registration by demonstrating that the mail verification failure rate for new registrants during the recent *2014* election (when there was no same-day registration) was even

[3] The 2015 re-analysis was also flawed because it counted North Carolina voters who confirmed their address pursuant to the "mail confirmation" process provided for in N.C.G.S. § 163-82.14 as having *failed* the verification process. *See* 7/30/15 Tr. 14:12-15:9. By contrast, the 2013 analysis—the one available to legislators at the time H.B. 589 was enacted—included voters who had returned their confirmation mailing pursuant to N.C.G.S. § 163-82.14 as having *passed* the verification process. *See id.* 15:10-19; PX 68 (describing that the report counted as failures "registrants [who] would have received two non forwardable mailings . . . that were returned undeliverable, or a confirmation mailing sent to the registrant was not returned . . . ."). Comparing the two reports—the 2015 report ignoring verification by subsequent mail confirmation and the 2013 report acknowledging that some voters do confirm by mail—the 2013 report is much more persuasive on the question of whether same-day registration posed dangers to the electoral system by allowing citizens to vote at the wrong address.

higher than the failure rate for same-day registration in 2012. This analysis directly rebutted the State's suggestion (reflected in DX 16 and the accompanying testimony by Ms. Strach and Mr. Neesby in its case-in-chief) that same-day registration results in a higher mail verification failure rate. Specifically, Dr. Lichtman's analysis showed that the mail verification rate for non-same-day registrants in 2014 (3.63% by his calculation) was in fact higher than the failure rate calculated by the State for same-day registrants during the 2012 election (2.19% for same-day registrants during the 2012 primary period; 2.44% for same-day registrants during the 2012 general election period). *See* 7/30/15 Tr. 147:16-20, 148:17-149:1. Thus, the analysis about which Dr. Lichtman testified was truly rebuttal in nature, as it responded to data presented and conclusions reached by the Defendants' witnesses with regard to the relative mail verification failure rates of same-day versus non-same-day registrants.

Moreover, given the circumstances surrounding the untimely release of the Defendants' 2015 re-analysis—including the fact that Plaintiffs and their experts did not learn the methodology underlying that report until Ms. Strach's and Mr. Neesby's mid-trial depositions—Plaintiffs should be granted appropriate leeway with regard to the timeliness of Dr. Lichtman's rebuttal opinions. Had the Defendants undertaken and disclosed this re-analysis of the 2012 data in accordance with the schedule set by the Court for fact discovery (indeed, Mr. Neesby was explicitly tendered as a lay witness, not an expert), it would have been available to Plaintiffs' experts during the expert discovery process set by the Court, and Plaintiffs would have had weeks or months to evaluate it. Thus, any alleged prejudice is of the Defendants' own making and they should not be

rewarded for their delay tactics by handcuffing Plaintiffs from rebutting the State's late-breaking analysis. To be clear, Defendants withheld their 2015 made-for-litigation re-analysis of the 2012 data until the month before trial—well outside the time set forth by the Court for such disclosures and during the throes of the parties' preparation for trial. The timing and circumstances of Dr. Lichtman's efforts to rebut that late-disclosed re-analysis is therefore entirely a product of Defendants' own making. Defendants' motion to exclude that rebuttal testimony should be denied.

ARGUMENT

I. Dr. Lichtman's Analysis Was Proper Rebuttal Testimony.

A. Dr. Lichtman Was Called To Rebut Ms. Strach's and Mr. Neesby's Testimony.

Dr. Lichtman's analysis of the 2014 mail verification rates was offered in proper rebuttal to the testimony regarding mail verification offered by Ms. Strach and Mr. Neesby. Ms. Strach testified that a "central" concern about same-day registration and mail verification is that individuals may register to vote and then later fail mail verification. 7/29/15 Tr. 13:18-14:2. She further suggested that the potential for such problems would be enhanced "during the same-day registration period" when "people are registering and voting at the same time." *Id.* Moreover, Mr. Neesby confirmed that based on his analysis of the data, as reflected in the State's June 2015 report, *see* DX 16, "SDR registrants who vote and then fail mail verification as compared to non-SDR registrants fail much more frequently, and it ranges between 5 times to 36 times as much." 7/29/15 Tr. 183:14-20. The Defendants based their testimony on a revised analysis performed by Mr. Neesby of voter registrations during the 2012 election. That

analysis had originally been performed in 2013, and reflected that non-same-day registration in fact involved a *greater* failure rate than same-day registration. Recognizing that the 2013 analysis undermined the State's *ex post facto* justification that elimination of same-day registration would resolve issues with the verification of new registrants, the Defendants undertook a re-analysis of the 2012 data and offered their revised litigation analysis in June 2015 to be presented during their case-in-chief.

Dr. Lichtman's rebuttal testimony was offered as a means of rebutting the State's late-breaking justification and report, which was admitted into evidence during the Defendants' case-in-chief. Because the State's analysis was limited to one election cycle (2012)—and thus involved just a single set of data points for comparison—the Plaintiffs called Dr. Lichtman to rebut the notion that same-day registration necessarily entailed a higher mail verification failure rate than non-same-day registration. To do so, Dr. Lichtman presented data and analysis from the mail verification process during the 2014 election cycle (after same-day registration had been eliminated), which demonstrated that the mail verification failure rate for 2014 registrants (all of whom were non-same-day registrants) was in fact *higher* than both the same-day and non-same-day registration failure rate for the 2012 election cycle.[4] Dr. Lichtman's testimony thus directly rebutted the testimony from the Defendants' witnesses, which suggested that same-day registration involved a greater potential for mail verification error (and thus

[4] Although the State had access to data from the 2014 registration cycle, it notably chose not to run an analysis of 2014 registrants, 7/29/15 Tr. 75:11-17, instead opting to perform a re-analysis of a two-year old report on the 2012 election. The State's failure to publish its own analysis of mail verification rates for 2014 voters is telling, particularly given the Defendants' emphasis on 2014 election results in virtually all other aspects of their defense.

improper or fraudulent voting) than non-same-day registration, by showing that non-same-day registration can yield comparable (and in some cases higher) mail verification failure rates than same-day registration. Indeed, Dr. Lichtman offered a more direct comparison than the one put forth by the State to determine whether the elimination of same-day registration would improve the verification rates for North Carolina citizens who registered and voted in the election year. (Notably, there was no such improvement.)

B. Dr. Lichtman's Testimony Could Not Have Been Offered In Plaintiff's Case-In-Chief.

Contrary to the Defendants' insistence, Dr. Lichtman's testimony "could [***not***] have been disclosed to defendants and presented during plaintiffs' case-in-chief at trial." (Mem. 8-9.)

1. Defendants' motion distorts the relevant timeline.

First, Defendants conveniently omit the timing of Dr. Lichtman's initial testimony during Plaintiffs' case-in-chief as compared to the mid-trial Strach and Neesby depositions in arguing that Dr. Lichtman's analysis could have been offered as part of Plaintiffs' case-in-chief. Dr. Lichtman first testified on direct examination on Friday, July 17. 7/17/15 Tr. 92-172. The Plaintiffs completed Dr. Lichtman's direct examination, *id.* at 172, but his cross-examination carried over through the weekend of July 18-19, *id.* at 228-29. During the intervening weekend, Defendants for the first time made Mr. Neesby available for a 90-minute deposition regarding this June 2015 mail verification report. (Mem. 6.) Mr. Neesby's deposition concluded in the early evening on July 18; however, because Dr. Lichtman's cross-examination had commenced, the

Plaintiffs could not—and did not—have any contact with Dr. Lichtman regarding any substantive aspect of the case at that time.

It was not until *after* Dr. Lichtman's cross-examination concluded on Tuesday, July 21[5] and he returned home on Wednesday, July 22 that Plaintiffs began discussing Mr. Neesby's recent deposition with Dr. Lichtman. Thus, Dr. Lichtman was not in a position to develop opinions until well after his direct testimony in the Plaintiffs' case-in-chief concluded. *See* 7/30/15 Tr. 172:17-25, 173:17-174:4. Accordingly, the fact that Dr. Lichtman's cross-examination—and only his cross-examination—resumed after Mr. Neesby's July 18 deposition is a red herring; Dr. Lichtman was in no position to rebut Mr. Neesby's deposition testimony at the time his cross-examination resumed, and in fact had not seen the transcript of such deposition at that time.

2. Dr. Lichtman's rebuttal analysis could not have been performed earlier.

The State's assertion that Dr. Lichtman "could have performed the same analysis that Neesby conducted anytime since January 2014," Mem. 8, is likewise wrong for several reasons.

First, that argument squarely highlights the even more salient fact that, by Defendants' theory, they (even more so than the Plaintiffs) should have been able to timely perform the analysis at issue, rather than delaying its release until weeks before trial. Instead, Defendants' delay only confirms that the 2015 re-analysis was purely a litigation-driven exercise that should have been disclosed during the discovery process.

[5] Given the scheduling needs of other witnesses, the parties and the Court agreed that other witnesses could be taken out of order, 7/17/15 Tr. 229:3-24, and Dr. Lichtman's testimony did not resume until Tuesday, July 21, *see* 7/21/15 Tr. 137:5-12.

Second, it would have been impossible to "perform[] the same analysis that Neesby conducted" because Mr. Neesby's analysis was based on a unique methodology that he himself developed and which required him to reconstruct the voting history of many hundreds of thousands of registrants. Indeed, Mr. Neesby confirmed during his trial testimony that no one else checked his numbers or duplicated his analysis. *See* 7/29/15 Tr. 230:14-15, 231:2-8.[6]

Third, even it were possible to replicate Mr. Neesby's analysis, it would have been impossible for Dr. Lichtman (or anyone else) to do so until Mr. Neesby explained his methodology at his July 18 deposition. As Dr. Lichtman testified, he was not in position to conduct his analysis of the June 2015 report until he read Mr. Neesby's deposition because "th[e] report is not crystal clear." 7/30/15 Tr. 172:17-25. For instance, during his July 18 deposition, Mr. Neesby confirmed for the first time that he separated voters out depending on whether they had "a status code that meant success or a status code that meant it did not succeed." *See* 7/18/15 Neesby Dep. 32:22-33:4; 7/30/15 Tr. 15:10-14. It was this either-or characterization scheme—placing all voters in one of two categories—that formed the basis for Dr. Lichtman's own analysis of 2014 registrants. 7/30/15 Tr. 164:8-15.[7]

---

[6] Had someone at the SBOE or one of Defendants' experts checked Mr. Neesby's data, they might have noticed that he had omitted SDR registrations from certain counties in his analysis—including Rowan County, which has a population of nearly 140,000. 7/30/15 Tr. 25:22-26:5, 159:16-24.

[7] Despite modest differences between Mr. Neesby's methodology and the methodology employed by Dr. Lichtman based exclusively on the snapshot files, Mr. Neesby conceded during his July 18 deposition that the two methods produced "very similar" results, as reflected in the State's own 2015 litigation report. 7/18/15 Neesby Dep. 49:1-11.

Fourth, as set forth above, Dr. Lichtman's analysis rebutted the State's revised analysis of the mail verification failure rates for voters participating in the 2012 primary and general elections by demonstrating that voters in the 2014 election cycle (where same-day registration was no longer available) had failed to pass mail verification at even greater rates in 2014 based on a snapshot taken some four to five months after the general election. Whereas the state used a March 2013 snapshot for its analysis of the November 2012 election (*i.e.*, four months after the election), Dr. Lichtman used an April 2015 snapshot for the November 2014 election (*i.e.*, five months after the election). That snapshot was not made available on the SBOE website until late spring 2015, and thus Dr. Lichtman could not have performed that analysis in January 2014, as the State suggests.[8] Rather, once it became apparent—in June and July 2015—that the State had conducted a re-analysis of the 2012 election and how it had done so, Dr. Lichtman sought out the closest available data to allow him to make an apples-to-apples comparison to the 2012 data relied upon by the State in its own analysis. Dr. Lichtman's presentation of an analysis based on that April 2015 data was timely disclosed and entirely appropriate.

3. The 2015 re-analysis was not yet in evidence.

Finally, any testimony by Dr. Lichtman regarding the State's 2015 re-analysis would have been premature during Plaintiffs' case-in-chief: the Defendants had not yet put on evidence and had not yet introduced their new, made-for-litigation 2015 re-analysis of 2012 mail verification rates. Indeed, at the time of Dr. Lichtman's

[8] Using an earlier snapshot would have resulted in different numbers because, as Ms. Strach confirmed, the snapshots are "dynamic"—in fact, they change daily—and each snapshot provides a different picture of the voter population. 7/22/15 Tr. 76:25-77:15.

testimony, the Plaintiffs' motion *in limine* regarding the late-produced June 2015 report was still pending. *See* ECF No. 308. Putting aside the timing of the Strach and Neesby trial depositions and their effect on this analysis, it would have made no sense for the Plaintiffs to "rebut" a report during their case-in-chief that they opposed being admitted into evidence in the first place. Indeed, based on the issues and errors with that analysis that came to light during the mid-trial depositions, Defendants may well have elected for strategic reasons not to introduce the 2015 re-analysis in their case. Once they did introduce it, however, Plaintiffs were entitled to rebut it.

This case is thus distinguishable from *Boles v. United States.*, 2015 WL 1508857 (M.D.N.C. Apr. 1, 2015), because Dr. Lichtman's testimony is in direct rebuttal to the testimony and opinions offered by Defendants' witnesses regarding the relative failure rates of same-day versus non-same-day registrations. As the Fourth Circuit has explained, rebuttal evidence is "evidence given to explain, repel, counteract, or disprove facts given in evidence by the opposing party." *United States v. Stitt*, 250 F.3d 878, 897 (4th Cir. 2001) (brackets and citation omitted). Here, Dr. Lichtman's testimony counteracted the testimony offered by Ms. Strach and Mr. Neesby that same-day registrants have a higher mail verification failure rate than non-same-day registrants. Dr. Lichtman could not have offered these opinions in the course of Plaintiffs' case-in-chief because the opinions he was rebutting from the Defendants had not yet been offered.[9]

[9] Dr. Lichtman *did* opine during the Plaintiffs' case-in-chief on the original mail verification analysis of the 2012 election performed by the State in 2013. *See* PX68, PX 68A. That report—which was the one available to North Carolina legislators in 2013

II. The Support Dr. Lichtman Received From A Previously Disclosed Data Analyst Is Irrelevant.

Defendants have also manufactured an objection to Dr. Lichtman's reliance on the work of consulting expert David Ely, President of Compass Demographics, in assisting Dr. Lichtman in obtaining the publicly available data from the SBOE Website. As an initial matter, Defendants have been aware that Mr. Ely has been assisting Dr. Lichtman with his analyses in this case since February of this year. Indeed, Dr. Lichtman openly referenced Mr. Ely's work in both his February 2015 expert report and March 2015 response report *See* PX 231 at 36-37, 63, 78, 129 (indicating that Compass Demographics was working "at my instruction"); PX 245 at 3, 6-7, 28. Accordingly, the fact that Dr. Lichtman was being supported by a database management specialist was well known to Defendants for months by the time of Dr. Lichtman's rebuttal trial testimony, yet Defendants never inquired at Dr. Lichtman's deposition regarding his relationship with Mr. Ely (with whom Dr. Lichtman has worked for decades, 7/21/15 Tr. 140:3-15), nor did they attempt to depose Mr. Ely. In any event, the use of support personnel to assist an expert in performing his or her duties in the course of litigation is a common, and arguably best, practice among expert witnesses performing complicated

---

when they were considering H.B. 589—showed that the undeliverable rate was higher for those who registered via non-same-day registration in 2012 than it was for those who registered via same-day registration. 7/17/15 Tr. 170:11-17. No amount of whitewashing of the 2013 report can change the fact that the *only* data available to legislators regarding mail verification during the 2012 election (*i.e.*, the most recent federal election) at the time H.B. 589 was enacted reflected that same-day registration resulted in a *lesser* proportion of mail-verification errors than non-same-day registration. Rather, the report thus supports Plaintiffs' argument that H.B. 589 was passed with discriminatory intent by confirming "that there is a pretext in [the Defendants'] rationale [from 2013] that we need to eliminate same-day registration because of verification problems." *Id.* 170:18-171:1.

statistical analysis, as it affords an opportunity for quality control and the cross-checking of methods and results.

Moreover, Dr. Lichtman made clear that he did not rely on Mr. Ely for anything more than extracting data to facilitate his own independent analysis. *See* 7/30/15 Tr. 168:8-11. As Dr. Lichtman explained in his testimony, he "did not rely on Mr. Ely for judgment calls, legal opinions, historical analysis, expert analysis; simply for extracting and compiling data." *Id.* The data itself came from the SBOE's own website, and nothing in Defendants' motion indicates that Mr. Ely incorrectly extracted data from the April 2015 SBOE voter snapshot. Indeed, prior to this latest motion, the State did not question *any* of the data extraction work conducted by Mr. Ely under Dr. Lichtman's direction. Dr. Lichtman's use of a database management specialist to assist him in culling State-owned data cannot now be grounds to exclude his testimony.[10]

Finally, the Defendants simply cannot have it both ways when it comes to Dr. Lichtman and Mr. Neesby. Specifically, the Defendants' suggestion that Dr. Lichtman's analysis required specialized knowledge of database management itself confirms that *Mr. Neesby's* testimony was improper and undisclosed expert testimony, as set forth in the United States' motion to strike certain testimony of Mr. Neesby. *See* ECF No. 344. Mr. Neesby was not disclosed as an expert under Federal Rule of Civil Procedure 26(a)(2)(B) or (C). Yet the Defendants' motion to exclude Dr. Lichtman's testimony argues that a witness must have specialized knowledge regarding the SEIMS

[10] In deposition testimony offered in March of this year, Marc Burris, the IT Director for the SBOE, testified that he provided certain data to Mr. Neesby for him to perform analyses of SBOE data. Burris Dep. 221:-222:12. Mr. Ely's provision of data to Dr. Lichtman is no different.

database before performing the analysis that Mr. Neesby put forth during trial. (Mem. 12.) The Defendants therefore claim on one hand that Dr. Lichtman—who was qualified earlier in the case as an expert in quantitative methodology—lacks the required specialized knowledge to undertake the analysis that he performed, while implicitly maintaining that Mr. Neesby—who was never disclosed as an expert, was never qualified as an expert in any field, was only employed by the SBOE for a matter of months before he undertook the litigation analysis at issue, and had no previous experience in administering or extracting data from voter record databases, 7/29/15 Tr. 183:21-23, 220:1-5, 222:18-24; 7/30/15 Tr. 35:18-36:2—has such knowledge. The Defendants must choose one or the other: if Mr. Neesby's testimony and late-breaking analysis regarding the 2012 same-day-registration/non-same-day registration mail verification analysis is to be accepted, Dr. Lichtman's rebuttal opinions must be admitted as well.

CONCLUSION

For the foregoing reasons, the Defendants' motion to exclude portions of Dr. Lichtman's testimony should be denied.

Dated: August 20, 2015

Respectfully submitted,

By: */s/ Daniel T. Donovan*

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

Daniel T. Donovan
Susan M. Davies
Bridget K. O'Connor
Michael Glick
KIRKLAND & ELLIS LLP
655 Fifteenth St., N.W.
Washington, DC 20005
Telephone: (202) 879-5000
daniel.donovan@kirkland.com

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

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

CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2015, I electronically filed the foregoing **NAACP PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO EXCLUDE CERTAIN REBUTTAL TESTIMONY BY DR. ALLAN LICHTMAN**, using the CM/ECF system in case numbers 1:13-cv-658, 1:13-cv-660, and 1:13-cv-861, which will send notification of such filing to all counsel of record, including those counsel listed below.

/s/ Daniel T. Donovan
Daniel T. Donovan
Attorney for Plaintiffs in
North Carolina State Conference of the NAACP, et al. v. McCrory, et al.

Counsel for Plaintiffs in North Carolina State Conference of the 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

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

Daniel T. Donovan
Thomas D. Yannucci
Susan M. Davies
Bridget K. O'Connor
K. Winn Allen
Jodi Wu
KIRKLAND & ELLIS LLP
655 Fifteenth St., N.W.
Washington, DC 20005
Telephone: (202) 879-5174
Facsimile: (202) 879-5200
E-mail: daniel.donovan@kirkland.com

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 Plaintiff in U.S. v. North Carolina, et al.
T. Christian Herren, Jr.
John A. Russ IV
Catherine Meza
David G. Cooper
Spencer R. Fisher
Elizabeth Ryan
Civil Rights Division, Voting Section
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 U.S. ATTORNEY
100 Otis Street
Asheville, NC 28801
Telephone: (828) 259-0645
E-mail: gill.beck@usdoj.gov

Counsel for Duke Plaintiff-Intervenors

Marc E. Elias
John M. Devaney
Bruce V. Spiva
Elisabeth C. Frost
Joseph P. Wenzinger
Amanda R. Callais
700 Thirteenth Street N.W., Ste. 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
E-Mail: MElias@perkinscoie.com

Joshua L. Kaul
1 East Main Street, Ste. 201
Madison, WI 53703
Telephone: (608) 294-4007
E-Mail: JKaul@perkinscoie.com

Edwin M. Speas, Jr. (State Bar # 4112)
John W. O'Hale
Caroline P. Mackie
POYNER SPRUILL LLP
P.O. Box 1801 (27602-1801)
301 Fayetteville St., Suite 1900
Raleigh, NC 27601
Telephone: (919) 783-6400
E-Mail: espeas@poynerspruill.com

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
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

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