

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP,

and

TAIWAN SCOTT, on behalf of himself and all
other similarly situated persons,

Plaintiffs,

v.

HENRY D. MCMASTER, in his official
capacity as Governor of South Carolina;
THOMAS C. ALEXANDER, in his official
capacity as President of the Senate; LUKE A.
RANKIN, in his official capacity as Chairman
of the Senate Judiciary Committee; JAMES H.
LUCAS, in his official capacity as Speaker of
the House of Representatives; CHRIS
MURPHY, in his official capacity as Chairman
of the House of Representatives Judiciary
Committee; WALLACE H. JORDAN, in his
official capacity as Chairman of the House of
Representatives Elections Law Subcommittee;
HOWARD KNAPP, in his official capacity as
interim Executive Director of the South
Carolina State Election Commission; JOHN
WELLS, Chair, JOANNE DAY,
CLIFFORD J. EDLER, LINDA MCCALL,
and SCOTT MOSELEY, in their official
capacities as members of the South Carolina
Election Commission,

Defendants.

C/A No. 3:21-cv-03302-JMC-TJH-RMG

**HOUSE DEFENDANTS' REPLY TO
PLAINTIFFS' RESPONSE IN
OPPOSITION TO MOTION TO
DISMISS FIRST AMENDED
COMPLAINT**

Defendants James H. Lucas (in his official capacity as Speaker of the South Carolina House of Representatives), Chris Murphy (in his official capacity as Chairman of the South Carolina House of Representatives Judiciary Committee), and Wallace H. Jordan (in his official capacity as

Chairman of the South Carolina House of Representatives Redistricting Ad Hoc Committee) (collectively, the “**House Defendants**”), by and through their undersigned counsel, hereby reply to the Plaintiffs’ Response in Opposition (ECF No. 124) to the House Defendants Motion to Dismiss the First Amended Complaint (ECF No. 91).

APPLICABLE STANDARD

Challenges to standing are addressed under Federal Rule of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction. *See Pitt Cnty. v. Hotels.com, L.P.*, 553 F.3d 308, 311 (4th Cir. 2009) (noting that the district court re-characterized a defendant's challenge to standing from a motion to dismiss for failure to state a claim under Rule 12(b)(6) to a motion to dismiss for lack of subject-matter jurisdiction under Rule 12(b)(1)). When a motion pursuant to Rule 12(b)(1) raises a challenge to the factual basis for subject-matter jurisdiction, the burden of proving subject-matter jurisdiction is on the plaintiff. *Richmond, Fredericksburg & Potomac R. Co. v. United States*, 945 F.2d 765, 768–69 (4th Cir. 1991) (citing *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982)). In determining whether jurisdiction exists, “the district court is to regard the pleadings’ allegations as mere evidence on the issue, and may consider evidence outside the pleadings without converting the proceeding to one for summary judgment.” *Id.* (citing *Trentacosta v. Frontier Pacific Aircraft Indus.*, 813 F.2d 1553, 1558 (9th Cir.1987)). As such, this Panel “should apply the standard applicable to a motion for summary judgment, under which the nonmoving party must set forth specific facts beyond the pleadings to show that a genuine issue of material fact exists.” *Trentacosta*, 813 F.2d at 1559 (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 323–24 (1986)).

FURTHER DISCUSSION

I. Plaintiff South Carolina State Conference NAACP does not have associational standing because it has not identified any members who were harmed or identified what those harms might be.

While merely alleging that it “has associational standing” (ECF No. 124 at 4), Plaintiff South Carolina State Conference NAACP (“**SC NAACP**”) has failed to identify any of its members that reside in any of the Challenged Districts. House Defendants requested that the SC NAACP “[p]rovide a list or otherwise identify by name and address all ‘members and constituents’ of SC NAACP as described in the Complaint and specifically identify for each person which House District he/she/they lives in.” House Defendants’ Interrogatory No. 4 to SC NAACP. Plaintiff SC NAACP objected to this Interrogatory “to the extent it seeks disclosure of the identity of its membership or volunteers that is protected by *NAACP v. Alabama*, 357 U.S. 449 (1958) (holding, inter alia, that “[c]ompelled disclosure of membership in an organization engaged in advocacy of particular beliefs” violates the constitutional right to freedom of assembly), or that otherwise infringes upon SC NAACP’s or its members’ or volunteers’ right to privacy under federal, state, and any other applicable laws.” **Exhibit A**, SC NAACP Response to House Defendants’ Interrogatory No. 4. The President of the SC NAACP, Brenda Murphy, was also instructed by NAACP Legal Defense and Education Fund counsel not to provide any information or documents related to her organization’s membership in the Challenged Districts.¹ **See Exhibit B**, Selected Pages of Transcript of Brenda Murphy’s Deposition.

¹ During Ms. Murphy’s deposition on February 4, 2022, NAACP Legal Defense and Education Fund counsel instructed Ms. Murphy not to answer any questions about membership of her organization. *See* Murphy Dep. 22:11-24; 64:20-65:14; 70:2-4; 171:19-24; 182:22-24. House Defendants noted that such an objection was not proper under Local Civ. Rule 30.04(C) (D.S.C.). *See* Murphy Dep. 65:2-3. Still, Plaintiffs have yet to file a motion for a protective order on the matter, despite the agreed upon three-day time period has long since elapsed. (*See* ECF No. 118 at ¶ 4).

In its response to the House Defendants' Motion to Dismiss, SC NAACP alleges that just by having unnamed members in 77 branches and 46 counties in South Carolina, it "is more than plausible that a member resides in each Challenged District." (ECF No. 124 at 3). Plaintiff SC NAACP states, without citation, that "[c]ontrolling case law...requires no more at this stage." *Id.*

Despite the Plaintiffs' claims, the Sixth Circuit Court of Appeals has very recently noted that federal courts must "vigilantly ensure that an association's members have incurred a personal injury." *Ass'n of Am. Physicians & Surgeons v. United States Food & Drug Admin.*, 13 F.4th 531, 534 (6th Cir. 2021). Indeed, the Sixth Circuit dismissed a complaint where the plaintiff association "failed to plausibly plead that any member has been injured by the actions of the" defendant. *Id.*

Plaintiffs' response cites *Nat'l Ass'n for Advancement of Colored People v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958) and says that "where compelled membership disclosure could violate individual members' freedom of association and right to privacy, 'particularly where a group espouses dissident beliefs,' associational standing is also appropriate." (ECF No. 124 at 4). However, the Sixth Circuit made clear that *Patterson* "did not address when an entity that has sustained no injury may sue on behalf of those who have." *Ass'n of Am. Physicians & Surgeons v. United States Food & Drug Admin.*, 13 F.4th at 538-39. The Sixth Circuit explained that in *Patterson*, "the NAACP was sued in state court by state officials who sought its membership list," and, because the state was seeking the identities of all members, the Supreme Court "held that the NAACP could invoke the constitutional rights of its members in defense against producing this list." *Id.* at 539 (citing *Patterson*, 357 U.S. at 452-60). The Sixth Circuit clearly stated that "[t]hese facts show that *Patterson* concerned third-party standing, not associational standing." *Id.* Thus, *Patterson* "has not jettisoned the usual rule that the plaintiff before the court must have suffered an injury." *Id.*

Further, the Supreme Court has noted that the “requirement of naming the affected members has never been dispensed with in light of statistical probabilities [of being injured], but only where all the members of the organization are affected by the challenged activity.” *Summers v. Earth Island Inst.*, 555 U.S. 488, 498-99 (2009) (citing *Patterson*, 357 U.S. at 459) (all organization members affected by release of membership lists). To satisfy associational standing requirements, “an organization must do more than identify a likelihood that the defendant’s conduct will harm an unknown member in light of the organization’s extensive size or membership base.” *Physicians & Surgeons v. United States Food & Drug Admin.*, 13 F.4th at 543 (citing *Summers* 555 U.S. at 498-99). Instead, the “organization must instead identify a member who has suffered (or is about to suffer) a concrete and particularized injury from the defendant’s conduct.” *Id.*; see also *S. Walk at Broadlands Homeowner’s Ass’n, Inc. v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 184 (4th Cir. 2013) (explaining, on an appeal from a motion to dismiss, that a homeowners association had “failed to identify a single specific member” and that “[t]his failure to follow the requirement articulated in *Summers* would seem to doom its representational standing claim” while rejecting attempts to evade *Summers*).

The Supreme Court has stated that mere allegations “that some (unidentified) members ...will suffer (unidentified) concrete harm as a result” of the defendants’ actions is a “novel approach to the law of organizational standing,” which “would make a mockery of our prior cases.” *Summers*, 555 U.S. at 499. A “cryptic” reference to the identity of members of an association will not suffice. *Pharm. Rsch. & Manufacturers of Am. v. Becerra*, No. 1:21-CV-1395 (CJN), 2021 WL 5630798, at *5 (D.D.C. Dec. 1, 2021). The complaint, together with materials incorporated by reference, must provide the Court with sufficient information to identify by name at least one member that possesses standing to sue. *Id.*

Applying this precedent to the facts and allegations here, it is undisputed that the SC NAACP is not alleging that all of its members are affected by Act No. 117. In the Amended Complaint, Plaintiffs allege that only the members in the Challenged Districts “have been and, if H. 4493 is not enjoined, will continue to be harmed by H. 4493’s assignment of them to unconstitutionally racially gerrymandered districts and purposefully dilutive districts.” (ECF No. 84 at ¶ 18). This make sense given that Plaintiffs’ claims of discrimination in redistricting require a “district-by-district” analysis, and an analysis of racial gerrymandering in the State “as a whole” would be legally erroneous. *Ala. Legis. Black Caucus v. Ala.*, 575 U.S. 2542, 255 (2015). In Plaintiffs’ case, the Challenged Districts consist of 28 of the 124 House Districts enacted by Act No. 117. (ECF No. 84 at ¶ 9). While the SC NAACP alleges it has members in every county in South Carolina, the Challenged Districts do not encompass all 46 counties. Therefore, the Challenged Districts cannot affect all members of the SC NAACP. House Defendants are not seeking information about every member of the SC NAACP. Instead, House Defendants are seeking the Plaintiffs to carry their burden of proving the factual basis for standing and subject-matter jurisdiction. To this point, Plaintiffs have failed to satisfy this burden and instead are asking the Court to trust them that they have members in each Challenged District that have been injured by the actions of the Defendants. Meanwhile, Plaintiffs have produced a mere 46 documents, half of which are duplicates, and have not yet produced any privilege log, while they simultaneously try to invade the deliberative process of governmental officials without a minimum showing of standing.

Where Plaintiff SC NAACP has been unable (or unwilling) to provide any information about their alleged members residing in the Challenged Districts, such as their position in the organization, which branches they belong to, or the process by which the SC NAACP identified

and contacted these members. *Compare to Luce v. Kelly*, No. 21-CV-1250, 2022 WL 204373, at *5 (N.D. Ill. Jan. 24, 2022) (“organizations’ identification of members, by age and county of residence, suffices at the pleadings stage to establish member standing.”). As such, Plaintiffs have been unable to meet their burden of establishing that they have associational standing.

Moreover, a voter who is not directly harmed by the Challenged Districts “lacks standing to pursue a racial gerrymandering claim.” *Alabama Legislative Black Caucus*, 575 U.S. at 263. (citing *United States v. Hays*, 515 U.S. 737, 744–45 (1995)). The Supreme Court’s “district-specific language makes sense in light of the nature of the harms that underlie a racial gerrymandering claim.” *Id.* “Those harms are personal.” *Id.* They include being “personally ... subjected to [a] racial classification,” *Bush v. Vera*, 517 U.S. 952, 957 (1996) (principal opinion), as well as being represented by a legislator who believes his “primary obligation is to represent only the members” of a particular racial group, *Shaw v. Reno*, 509 U.S. 630, 648 (1993). Those harms “directly threaten a voter who lives in the district attacked,” but the harms “do not so keenly threaten a voter who lives elsewhere in the State.” *Alabama Legislative Black Caucus*, 575 U.S. at 263. In this case, the Plaintiffs have been unable (or refuse) to point to any specific harm suffered by any one or more members in each of the Challenged Districts. Because Plaintiff SC NAACP has failed to identify any members in the Challenged Districts and had failed to identify any specific harm suffered in each and every Challenged District, Plaintiffs do not have standing and this Panel does not have subject-matter jurisdiction over their purported claims, such that these claims against the House Districts must be dismissed.

II. Plaintiff Taiwan Scott does not live in any Challenged District and is not challenging the House Districts.

Plaintiffs allege in their Proposed Second Amended Complaint that Plaintiff Taiwan Scott (“**Scott**”) resides in Congressional District 1 and is “harmed by the congressional map.” (ECF No.

116-2 at ¶¶ 22-23). Further, Plaintiff Scott, in his Interrogatory Answers, admits that he is “not serving as a plaintiff alleging that certain South Carolina House Districts are racially gerrymandered in violation of the Fourteenth Amendment of the U.S. Constitution or that H. 4493 was enacted with a discriminatory intent in violation of the Fourteenth and Fifteenth Amendments of the U.S. Constitution.” Plaintiff Scott Response to House Defendants’ Interrogatory No. 1. As such, Plaintiff Scott, by his own admission, does not have standing as to the Challenged Districts.

III. Plaintiffs fail to sufficiently allege facts for either racial gerrymandering or intentional discrimination claims.

Plaintiffs allege that “House Defendants fail to address Plaintiffs’ intentional discrimination allegations, which involve a different standard and burden of proof than racial gerrymandering claims.” (ECF No. 124 at 3). However, Plaintiffs still have that burden of proof and have not met that burden or, more importantly at this stage, the federal pleading requirement as to this claim or the racial gerrymandering claim. House Defendants noted in their Motion to Dismiss that “Plaintiffs improperly assume the intent of the General Assembly based on a quick look at the map and some cursory statistics.” (ECF No. 91 at 11). Indeed, that Plaintiffs have offered no other evidence for either their claims of racial gerrymandering or intentional discrimination. In their Amended Complaint, Plaintiffs offer the same factual allegations as to both of their claims. (*See* ECF No. 84 at ¶¶ 160, 168, 170). Plaintiffs failed to differentiate the factual allegations between racial gerrymandering and intentional discrimination. In their Motion to Dismiss, House Defendants thoroughly addressed the allegations for both claims for all the Challenged Districts by showing that race was not the predominant factor used in drawing any of the Challenged Districts and race-neutral factors and traditional redistricting principles were used.

Plaintiffs have only offered bare unsupported allegations of intentional discrimination, and House Defendants sufficiently addressed those pleading deficiencies in their Motion to Dismiss.

CONCLUSION

House Defendants respectfully submit the above arguments in support of their Motion to Dismiss the First Amended Complaint (ECF No. 91).

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Respectfully submitted,

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February 10, 2022
Columbia, South Carolina

*Attorneys for James H. Lucas, Chris Murphy,
and Wallace H. Jordan*

Exhibit A
*(Plaintiffs' Responses to House Defendants'
First Set of Interrogatories)*

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THE SOUTH CAROLINA STATE
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TAIWAN SCOTT, on behalf of himself and
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CHRIS MURPHY, in his official capacity as
Chairman of the House of Representatives
Judiciary Committee; WALLACE H.
JORDAN, in his official capacity as
Chairman of the House of Representatives
Elections Law Subcommittee; HOWARD
KNAPP, in his official capacity as interim
Executive Director of the South Carolina
State Election Commission; JOHN WELLS,
Chair, JOANNE DAY, CLIFFORD J.
EDLER, LINDA MCCALL, and SCOTT
MOSELEY, in their official capacities as
members of the South Carolina Election
Commission,

Defendants.

Case No. 3-21-cv-03302-JMC-
TJH-RMG

**PLAINTIFFS' OBJECTIONS AND
RESPONSES TO DEFENDANT
JAMES H. LUCAS, CHRIS
MURPHY, AND WALLACE H.
JORDAN'S FIRST SET OF
INTERROGATORIES TO
PLAINTIFF SOUTH CAROLINA
STATE CONFERENCE OF THE
NAACP**

Pursuant to Rules 26 and 33 of the Federal Rule of Civil Procedure, the South Carolina State Conference of the NAACP (“SC NAACP”) hereby objects and responds to Defendants James H. Lucas, Chris Murphy, and Wallace H. Jordan’s (“House Defendants”) First Set of Interrogatories (the “Interrogatories”).

PRELIMINARY STATEMENT

Collectively, Plaintiff’s objections contained herein and the forthcoming substantive responses (“Objections and Responses”) are based on information reasonably available to Plaintiff at this time. Plaintiff reserves the right to amend and/or supplement their Objections and Responses based on new information obtained in discovery or otherwise in the course of this action.

Information contained in any Objections and Responses pursuant to these Interrogatories is not an admission or acknowledgement by Plaintiff that such information is relevant to any claim or defense in this action; is without prejudice to Plaintiff’s right to contend at any trial or in any other proceeding, in this action or otherwise, that such information is inadmissible, irrelevant, immaterial, or not the proper basis for discovery; and is without prejudice to or waiver of any objection to any future use of such information.

Specific objections to each separate Interrogatory are made below. Additionally, Plaintiff makes certain continuing objections to the Interrogatories, also listed below (“Continuing Objections”). These Continuing Objections, including with respect to the definitions and instructions, are incorporated by reference into all of the responses made with respect to each separate Interrogatory. Plaintiff’s response to each individual Interrogatory is submitted without prejudice to, and without in any respect waiving, any Continuing Objections not expressly set forth in that response. Accordingly, the inclusion of any specific objection in any response

below is neither intended as, nor shall in any way be deemed, a waiver of any Continuing Objection or of any other specific objection made herein or that may be asserted at a later date.

CONTINUING OBJECTIONS

Plaintiff incorporates each of the following Continuing Objections in its response to each Interrogatory. In addition to these Continuing Objections, Plaintiff may also state specific objections to Interrogatories where appropriate, including objections that are not generally applicable to all the Interrogatories. By setting forth such specific objections, Plaintiff does not intend to limit or restrict its Continuing Objections.

1. Plaintiff objects to each Interrogatory to the extent it imposes on Plaintiff any obligations that are inconsistent with or beyond those imposed by the Federal Rules of Civil Procedure, the Local Rules, or any applicable order of the Court.

2. Plaintiff objects to each Definition, Instruction, or Interrogatory to the extent it seeks production of documents or information subject to the attorney-client privilege, the work-product protection doctrine, or any other applicable privilege, rule, doctrine, or immunity, whether created by statute or common law. Each Interrogatory has been read to exclude discovery of such privileged information. Inadvertent production of any such information does not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such information or document, nor does inadvertent production waive the right of Plaintiff to object to the use of any such information in any proceeding.

3. Plaintiff objects to each Interrogatory to the extent it seeks information that is not relevant to any party's claims or defenses. *See* Rule 26(b)(1).

4. Plaintiff objects to each Interrogatory to the extent it is not proportional to the needs of the case, "considering the importance of the issues at stake in the action . . . the parties'

relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit." *See* Rule 26(b)(1).

5. Plaintiff objects to each Interrogatory to the extent it seeks discovery of electronically stored information that is not reasonably accessible due to undue burden or cost, in violation of Rule 26(b)(2)(B).

6. Plaintiff objects to each Interrogatory to the extent that it seeks information that is outside Plaintiff's knowledge, possession, custody, or control.

7. Plaintiff objects to each Interrogatory to the extent it seeks a legal conclusion or requires Plaintiff to formulate a legal conclusion to fully respond.

CONTINUING OBJECTIONS TO HOUSE DEFENDANTS' INSTRUCTIONS

1. Plaintiff objects to Instructions 1-8 to the extent they impose on Plaintiff any obligations that are inconsistent with or beyond those imposed by the Federal Rules of Civil Procedure, the Local Rules, or any applicable Order of the Court or agreement between the parties.

2. Plaintiff objects to Instruction 6 to the extent that it purports to impose upon Plaintiff any obligations that are broader than or inconsistent with the Federal Rules or any Order of this Court. Plaintiff will log privileged documents in accordance with their obligations under the Federal Rules or agreement between the parties.

3. Plaintiff objects to the definitions in Instruction 8 to the extent they render each Interrogatory irrelevant, vague and ambiguous, overly broad, unduly burdensome, and not proportional to the needs of the case.

CONTINUING OBJECTIONS TO HOUSE DEFENDANTS' DEFINITIONS

By submitting these Objections and Responses, Plaintiff does not adopt House Defendants' purported definition of words and phrases contained in the Instructions to House Defendants' Interrogatories. Plaintiff interprets all words contained in the Interrogatories in accordance with their ordinary and customary meanings.

1. Plaintiff objects to the definitions "you" and "your" on the ground that they purport to require Plaintiff to produce information outside its knowledge, possession, custody, or control. Plaintiff objects to the definitions of "you" and "your" to the extent they purport to request information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection. For purposes of these Objections and Responses, Plaintiff responds only on behalf of the SC NAACP.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify each person who you believe has knowledge of facts relevant to any of the allegations in the Complaint or any of the defenses raised by the House Defendants, and describe in detail your understanding of the facts of which they have knowledge.

RESPONSE TO INTERROGATORY NO. 1:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above. Plaintiff objects to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to identify "each person who you believe has knowledge of facts relevant to any of the allegations" in the Complaint or any of the defenses raised by House Defendants, and to "describe in detail" the facts of which they have knowledge. Plaintiff objects to this Interrogatory to the extent it

seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection. Plaintiff objects to this Interrogatory on the ground that it seeks information that is outside Plaintiff's knowledge, possession, custody, or control. Discovery is ongoing and this Interrogatory seeks information that is in the possession, custody, or control of the House Defendants.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows: SC NAACP identifies the following individual who may have information with respect to SCNAACP's claims in this action:

1. Individuals and subchapters identified as Plaintiffs in this action and individuals and subchapters affiliated with Plaintiffs SC NAACP and Taiwan Scott who have general knowledge or information regarding (i) South Carolina's redistricting process and the state's history of redistricting; and (ii) South Carolina's voting population, including voting patterns and demographics, including, and who maybe contacted through Plaintiffs' undersigned counsel:
 - a. Executive leadership of the South Carolina State Conference of the NAACP, including Brenda Murphy, President; and
 - b. Taiwan Scott.
2. Individuals identified as Defendants in this action, who have general knowledge or information regarding (i) South Carolina's redistricting process and the state's history of redistricting; and (ii) South Carolina's voting population, including voting patterns and demographics, including, and who maybe contacted through Plaintiffs' undersigned counsel, including:
 - a. Henry D. McMaster, in his official capacity as Governor of South Carolina;
 - b. Thomas C. Alexander, in his official capacity as Chairman of the Senate Judiciary Committee;
 - c. Luke A. Rankin, in his official capacity as Chairman of the Senate Judiciary Committee;
 - d. Representative James H. Lucas, in his official capacity as Speaker of the South Carolina House of Representatives;
 - e. Chris Murphy, in his official capacity as Chairman of the South Carolina House of Representatives Judiciary Committee;

- f. Representative Wallace H. Jordon, in his official capacity as Chairman of the South Carolina House of Representatives Elections Law Subcommittee;
 - g. Howard Knapp, in his official capacity as interim Executive Director of the South Carolina State Election Commission;
 - h. John Wells in his official capacity as a member of the South Carolina State Election Commission;
 - i. Joanne Day in her official capacity as a member of the South Carolina State Election Commission;
 - j. Clifford J. Edler in his official capacity as member of the South Carolina State Election Commission;
 - k. Linda McCall in her official capacity as a member of the South Carolina State Election Commission; and
 - l. Scott Moseley in his official capacity as member of the South Carolina State Election Commission.
3. Members of the South Carolina State House of Representatives, 223 Blatt Building, 1105 Pendleton Street, Columbia, SC 29201, who may have information regarding the South Carolina redistricting process and the South Carolina voting population, including, but not limited to:
- a. Representative Justin T. Bamberg;
 - b. Representative Beth E. Bernstein;
 - c. Representative Wendy C. Brawley;
 - d. Representative Neal A. Collins;
 - e. Representative Jason Elliot;
 - f. Representative Jerry N. Govan, Jr.;
 - g. Representative John Richard C. King;
 - h. Representative Patricia Moore Henegan; and
 - i. Representative Wm. Weston J. Newton.
4. Staff members for the South Carolina State House of Representatives, including but not limited to, staff members for the Judiciary Committee, Elections Law Subcommittee, and House Redistricting Ad Hoc Committee who may have information regarding: (i) the 2020 South Carolina redistricting process; (ii) South Carolina's history of redistricting; (iii) the district map drawn for the South Carolina State House of Representatives; and (iv) South Carolina's voting population, including, but not limited to:
- a. Patrick Dennis, General Counsel/Chief of Staff to Speaker Lucas

- b. Thomas Hauger, Sarah Grace Williamson, Joleigh “Eliza” Deguit, Megan Goyak, Daniel Ingley, and Sebastian Bass
5. Third-party organizations focused on redistricting, including their members, employees, and agents, who may have information regarding the redistricting process in South Carolina, including, but not limited to:
 - a. Adam Kincaid, Executive Director, the National Republican Redistricting Trust, 1750 Tysons Boulevard, Suite 1500, McLean, VA, 22102, (703) 245-8020;
 - b. Lynn Teague, Vice President for Issues and Action, League of Women Voters of South Carolina, PO Box 845, Columbia, SC 29202, (803) 556-9802; and
 - c. Frank Rainwater, Executive Director, South Carolina Revenue and Fiscal Affairs Office, 100 Assembly Street, Rembert Dennis Building, Suite 421, Columbia, SC 29201, (803) 734-3793.
6. Expert witnesses, who have information regarding the manner in which the House district map was drawn and the voting population within each drawn district, identified or to be identified pursuant to the Court’s Scheduling Order regarding expert discovery.
7. Any other witnesses identified by any party in this litigation in initial disclosures or in any other discovery responses.

President Murphy should be contacted through counsel for Plaintiffs in this action.

SC NAACP further states that Defendants (and their employees, agents, and representatives) and all other witnesses who have been previously identified in this action have knowledge of facts with respect to this lawsuit.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 2:

Identify each person that assisted or participated in the drafting, review or editing of the letters submitted to one or more of the House Defendants during the 2021 redistricting cycle on which you are a signatory party, and for each such person, describe in detail the manner of assistance or participation.

RESPONSE TO INTERROGATORY NO. 2:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is irrelevant, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to identify “each person that assisted or participated in the drafting, review or editing of the letters submitted to one or more of the House Defendants during the 2021 redistricting cycle on which you are a signatory party” and to “describe in detail the manner of assistance or participation.” Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

As Defendants are aware, on October 8, 2021, the SC NAACP submitted one proposed state House map to the House during the redistricting cycle which was developed in consultation with the undersigned counsel for the SC NAACP and feedback from organizational leadership like executive members and/or Branch presidents. Accompanying that House map, and in addition to it, the SC NAACP submitted letters or provided verbal or written testimony in consultation with the undersigned counsel for the SC NAACP and feedback from organizational leadership like executive members and/or Branch presidents before the House committees considering redistricting both before, during, and after the Legislature considered state House maps, including on:

- August 9, 2021 to the SC House Redistricting Ad Hoc Committee

(<https://www.naacpldf.org/news/ldf-sends-letter-to-the-south-carolina-house->

redistricting-ad-hoc-committee-about-their-obligations-under-section-2-of-the-voting-rights-act-and-the-constitution/)

- August 30, 2021 to the SC House Redistricting Ad Hoc Committee
(<https://www.naacpldf.org/wp-content/uploads/Follow-Up-Letter-to-SC-House-Redistricting-Ad-Hoc-Committee-8-30-21.pdf>)
- September 27, 2021 to the SC House Redistricting Ad Hoc Committee
(<https://www.naacpldf.org/news/ldf-sends-follow-up-letters-to-south-carolina-house-and-senate-redistricting-subcommittees-urging-transparency-in-the-redistricting-process/>)
- November 10, 2021 to the SC House Redistricting Ad Hoc Committee
(<https://www.naacpldf.org/news/ldf-submits-testimony-to-south-carolina-house-and-senate-redistricting-subcommittees/>)
- November 15, 2021 to the House Redistricting Ad Hoc Committee
(<https://www.naacpldf.org/news/ldf-submits-testimony-to-south-carolina-house-and-senate-redistricting-subcommittees/>)
- November 30, 2021 to the SC House (<https://www.naacpldf.org/news/ldf-sends-letters-to-the-south-carolina-association-of-counties-and-house-judiciary-committee-concerning-redistricting/>)

Members of the undersigned counsel for SC NAACP provided draft letters and testimony to SC NAACP who reviewed, provided comments, and also delivered comments and testimony.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 3:

Describe in detail all communications you have had with any other party, consultant, expert, technical advisor, or other similar person connected in any way to this litigation regarding

redistricting matters in South Carolina.

RESPONSE TO INTERROGATORY NO. 3:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to identify “[d]escribe in detail all communications you have had with any other party, consultant, expert, technical advisor, or other similar person connected in any way to this litigation regarding redistricting matters in South Carolina.” Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

The SC NAACP has not hired any expert or technical advisor to develop the map it proposed to the House. It has from time to time consulted with Dr. John Ruoff about the House redistricting process. The SC NAACP has regularly engaged with its organizational leadership (e.g., executive leadership and Branch presidents), members, and constituents regarding the House redistricting process and proposed maps. It has also engaged with members of the Legislature, including by providing written and verbal testimony to the various committees. It also regularly engaged with a coalition of SC partners like the SC League of Women Voters, SC AFL-CIO, SC National Action Network, SC Southern Christian Leadership Conference, and SC Progressive Network to discuss and strategize about the post 2020 redistricting process and proposed state House maps. The SC NAACP has engaged with undersigned counsel to understand, strategize, provide written comments and testimony and review proposed

redistricting maps for the state House to ensure that state House maps do not discriminate against Black voters.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 4:

Provide a list or otherwise identify by name and address all “members and constituents” of SC NAACP as described in the Complaint and specifically identify for each person which House District he/she/they lives in.

RESPONSE TO INTERROGATORY NO. 4:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is irrelevant, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to identify “identify by name and address all ‘members and constituents’ of SC NAACP.” SC NAACP further objects to this Interrogatory to the extent it seeks disclosure of the identity of its membership or volunteers that is protected by *NAACP v. Alabama*, 357 U.S. 449 (1958) (holding, inter alia, that “[c]ompelled disclosure of membership in an organization engaged in advocacy of particular beliefs” violates the constitutional right to freedom of assembly), or that otherwise infringes upon SC NAACP’s or its members’ or volunteers’ right to privacy under federal, state, and any other applicable laws. Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

The NAACP has a long history of being the target of racist attacks as a result of its

advocacy for people of color and its fight against segregation and white supremacy both in South Carolina and across the South. After its successful role in *Brown v. Board of Education*, the state of South Carolina “resisted desegregation” and “orchestrated the effective banishment of the organization . . . using old laws aimed to combat the Ku Klux Klan and other white supremacist groups, and using alterations of old barratry and champerty laws.” Bagley Expert Report at 5. In furtherance of its goal to undermine and weaken the mission of the NAACP, the state of South Carolina “called on the NAACP to produce membership rolls.” *Id.* The NAACP refused to follow the state’s directive “knowing that this would form the basis for economic reprisal.” *Id.* at 5-6. As a result of the NAACP’s refusal to produce membership rolls, the state of South Carolina, “charged the organization with being a foreign corporation that had not met the requirements for doing business in the state as such and had been instead soliciting plaintiffs.” *Id.* at 6. Due to this, “[a] state court imposed a fine that the organization could not hope to pay and refused it the administrative means to rectify the situation even if it could.” *Id.* In light of similar actions taken by Southern states, the Supreme Court held in *NAACP v. Alabama* that “[c]ompell[ing] [the] disclosure of membership in an organization engaged in advocacy of particular beliefs” would violate the NAACP’s constitutional right to freedom of assembly. 357 U.S. 449, 462 (1958). Due to this disconcerting history of retaliation against the NAACP by state of South Carolina, including the House Defendants’ predecessors, vis-à-vis having possession of the names of the NAACP’s members and constituents, the NAACP declines to provide a list of its members and constituencies to the House Defendants at this time.

Moreover, consistent with the First Amended Complaint, the SC NAACP is a statewide nonprofit, nonpartisan membership civil rights organization. It has 77 branches of adult members

across South Carolina, including at least one branch in each of the state's 46 counties.¹ Together, the South Carolina NAACP has more than 13,000 members across all 46 counties, who are predominantly but not exclusively Black people. Its membership also includes other racial and ethnic minority residents, as well white South Carolinians. The SC NAACP's members include registered voters in the Challenged Districts.

SC NAACP is willing to meet and confer concerning the scope of this Interrogatory and the specific information sought by House Defendants.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 5:

Describe in detail each conversation, discussion, meeting, call, conference, or any other similar encounter you have had with each of your members and/or constituents that reside in any of the Challenged Districts.

RESPONSE TO INTERROGATORY NO. 5:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is irrelevant, overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require

Plaintiff to “[d]escribe in detail each conversation, discussion, meeting, call, conference, or any

¹ The SC NAACP is a “state wide political caucus” that “the purpose of endorsing candidates for political office who will be responsible to the needs of the blacks and other minorities and poor people.” *Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 269-70 (2015) (citations, internal quotations, internal edits omitted). These statements “support an inference that the organization has members in all of the State’s majority-minority districts, other things being equal, which is sufficient to meet the Conference’s burden of establishing standing. That is to say, it seems highly likely that a ‘statewide’ organization with members in ‘almost every county,’ the purpose of which is to help ‘blacks and other minorities and poor people,’ will have members in each majority-minority district.” *Id.* at 270.

other similar encounter you have had with each of your members and/or constituents that reside in any of the Challenged Districts,” including without regard to the subject matter of this action. Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection. Defendants.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

As part of its organizational mission and regular functions, the SC NAACP regularly communicates and meets with its organizational executive leadership, leadership of its Branches, members, and constituents to discuss a variety of issues that impact Black people and other people who have been historically discriminated against—by government and private entities—and continue to be discriminated against into the present in South Carolina. These communications involve issues of education, housing, health care access, political participation, police reform, business development, transportation and infrastructure access, access to land ownership, and more.

SC NAACP is willing to meet and confer concerning the scope of this Interrogatory and the specific information sought by House Defendants.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 6:

Describe in detail all facts that form the basis by which you determined that 37.53% is sufficient to elect or influence the election of a Black-preferred candidate in your proposed House District 7, including any communications, documents, analyses, reports, or any other material.

RESPONSE TO INTERROGATORY NO. 6:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to describe “all facts” that form the basis for the determination that 37.53% is sufficient to elect or influence the election of a Black-preferred candidate in proposed House District 7, “including any communications, documents, analyses, reports, or any other material.” Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection. Plaintiff objects to this Interrogatory on the ground that it seeks information that is outside Plaintiff’s knowledge, possession, custody, or control. Discovery is ongoing and this Interrogatory seeks information that is in the possession, custody, or control of the House Defendants.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

SC NAACP refers House Defendants to the First Amended Complaint, specifically paragraphs 112-23, and the expert reports submitted by Drs. Duchin (Section 4.1), Liu (e.g., Parts IV, V VI.2 (pp. 10-12)), and Ragusa (Section #4). Having the BVAP in House District 7 at 37.5% “provides that Black voters have a chance of electing or influencing the election of the candidate of their choice.” First Am. Compl. ¶ 117.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 7:

Describe in detail all facts that form the basis by which you determined that Black voters are unnecessarily packed into each of these House Districts: 51, 59, 70, 73, 74, 76, 77, 79, 90,

101.

RESPONSE TO INTERROGATORY NO. 7:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to detail “all facts” that form the basis for the determination that Black voters are unnecessarily packed into House Districts: 51, 59, 70, 73, 74, 76, 77, 79, 90, 101. Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection. Plaintiff objects to this Interrogatory on the ground that it seeks information that is outside Plaintiff’s knowledge, possession, custody, or control. Discovery is ongoing and this Interrogatory seeks information that is in the possession, custody, or control of the House Defendants.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

SC NAACP refers House Defendants to the First Amended Complaint and the expert reports submitted by Drs. Duchin, Imai, Liu, Ragusa, and Bagley.

Cluster	Complaint	Expert Reports
State House District 51 (Sumter County)	¶¶ 129-33	Imai Section V.B Liu p. 13 Duchin Section 4.3 Ragusa Section #2 Bagley pp. 10-11, 16-19
State House Districts 59 and 101 (Florence County and Williamsburg County)	¶¶ 141-47	Imai Section V.E Liu pp. 14-15 Duchin Section 4.5 Ragusa Section #2 Bagley pp. 10-11, 16-19
State House Districts 70, 73, 74, 76, 77, 79 (Richland)	¶¶ 148-54	Imai Section V.F Liu pp. 15-16

County)		Duchin Section 4.6 Ragusa Section #2 Bagley pp. 10-11, 16-19
State House Districts 90 (Orangeburg County)	¶¶ 155-59	Imai Section V.D Liu pp. 16-17 Duchin Section 4.7 Ragusa Section #2 Bagley pp. 10-11, 16-19

Fact evidence and witness testimony will be disclosed consistent with the case scheduling order and at trial.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 8:

Describe in detail all factors, beginning with the predominant factor, that resulted in the proposed House District 7 set forth in the Complaint, and explain how race is not the predominant factor. Include in your response all communications, documents, analyses, reports, or any other material that corroborates your response.

RESPONSE TO INTERROGATORY NO. 8:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case. Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection. Plaintiff objects to this Interrogatory on the ground that it seeks information that is outside Plaintiff's knowledge, possession, custody, or control. Discovery is ongoing and this Interrogatory seeks information that is in the possession, custody, or control of the House Defendants.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

The SC NAACP considered the following criteria when proposing House District 7: the U.S. Constitution; federal law; 2020 Census data, including racial demographic data; recent statewide and county-level voting patterns, including racially polarized voting patterns; how past and newly proposed districts may perform for voters; communities of interest and other redistricting principles like contiguity, compactness, and any incumbent protection; and, incorporation of community members' feedback. Answering further, SC NAACP refers House Defendants to the Amended Complaint, specifically paragraphs 112-119, 121-23, and the expert reports submitted by Drs. Duchin (Section 4.1), Imai (Section V.C), Liu (e.g., Parts IV, V VI.2 (pp. 10-12)), and Ragusa (Section #1).

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 9:

Identify each and every person involved in drawing the map presented in the Amended Complaint and who were involved in making decisions regarding the placement of district lines.

RESPONSE TO INTERROGATORY NO. 9:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to identify "each and every person involved in drawing the map presented in the Amended Complaint and who were involved in making decisions regarding the placement of district lines." Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable

privilege or protection. Plaintiff objects to this Interrogatory on the ground that it seeks information that is outside Plaintiff's knowledge, possession, custody, or control. Discovery is ongoing and this Interrogatory seeks information that is in the possession, custody, or control of the House Defendants.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

The First Amended Complaint does not contain a map as described by this Interrogatory. SC NAACP is willing to meet and confer concerning the scope of this Interrogatory and the specific information sought by House Defendants.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 10:

Describe in detail the criteria used to draw each map that you submitted or caused to be submitted to the Redistricting Ad Hoc Committee of the House of Representatives and the Court, which includes describing for each map, separately, the criteria used to draw each map. Such criteria would include, but not be limited to, criteria related to pairing incumbents.

RESPONSE TO INTERROGATORY NO. 10:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case. Plaintiff objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work product protection doctrine, or any other applicable privilege or protection. Plaintiff objects to this Interrogatory on the ground that it seeks information that is outside Plaintiff's knowledge, possession, custody, or control. Discovery is ongoing and this Interrogatory seeks information

that is in the possession, custody, or control of the House Defendants.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

As conveyed in the submission letter to House (<https://www.naacpldf.org/wp-content/uploads/Letter-to-H-Redistricting-Ad-Hoc-Comm-Submitting-Congressional-and-House-Maps-10-8-21.pdf>), the SC NAACP considered the following criteria when drawing maps for the Redistricting Ad Hoc Committee of the House of Representatives: the U.S. Constitution; federal law; 2020 Census data, including racial demographic data; recent statewide and county-level voting patterns, including racially polarized voting patterns; how past and newly proposed districts may perform for voters; communities of interest and other redistricting principles like contiguity, compactness, and any incumbent protection; and, incorporation of community members' feedback.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

INTERROGATORY NO. 11:

Describe in detail the organization of the “South Carolina State Conference of the NAACP,” including, but not limited to, the date of formation or organization, whichever is applicable, and under which National Association for the Advancement of Colored People corporate entity (please include the legal name of that entity and the State where that entity was formed or organized) is the “South Carolina State Conference of the NAACP” aligned.

RESPONSE TO INTERROGATORY NO. 11:

Plaintiff incorporates by reference the Continuing Objections, including the Continuing Objections to Definitions and the Continuing Objections to Instructions, set forth above.

Plaintiff object to this Interrogatory on the ground that it is overly broad, unduly burdensome, and not proportional to the needs of the case to the extent it purports to require Plaintiff to “in

detail” the organization of the “South Carolina State Conference of the NAACP.

Subject to and without waiving the foregoing objections, SC NAACP answers as follows:

SC NAACP is a 501(c)(4) organization. The SC NAACP is a state subsidiary of the National Association for the Advancement of Colored People (“NAACP”), which was founded in 1909. The NAACP is the nation’s largest and oldest civil rights grassroots organization. The NAACP is organized into state or state area and local units, known as conferences, chapters and branches, all of which are part of the NAACP. Every member of a state or local unit is also a member of the NAACP. The South Carolina NAACP, a state conference of the NAACP, was chartered in 1939 and is the oldest civil rights group in South Carolina.

Plaintiff reserves the right to amend and/or supplement its response to this Interrogatory.

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Dated: February 2, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 2, 2022, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

/s/ Christopher Bryant
Christopher Bryant

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Exhibit B
(Pages from Brenda Murphy Deposition Transcript)

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Brenda Murphy

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

CASE NUMBER: 3:21-cv-03302-JMC-TJH-RMG

THE SOUTH CAROLINA STATE CONFERENCE
OF THE NAACP,

and TAIWAN SCOTT, on behalf of himself
and all similarly situated persons,

Plaintiffs,

vs.

HENRY D. MCMASTER, in his official
capacity as Governor of
South Carolina, et al.,

Defendants.

DEPOSITION

OF

BRENDA MURPHY

February 4, 2022 at 9:05 a.m.

Brenda Murphy

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1 member of the NAACP participated in one of our
2 community meetings. I would say meetings with
3 presidents and members interested in attending. That
4 was the only occasion.

5 Q. When you use the term "we", to whom do
6 you refer?

7 A. I am talking about the coalition.

8 Q. Okay. And who is this representative to
9 whom you refer?

10 A. I --

11 MR. INGRAM: Objection. Asking for --
12 I'm going to instruct my client not to answer. That's
13 asking for the identity of a NAACP member.

14 MR. MOORE: I don't believe that's --
15 is that a privileged -- you're instructing your client
16 not to answer when I ask her who she met with. Is
17 that correct?

18 MR. INGRAM: The answer would reveal
19 the name of a member and a partial disclosure of a
20 membership list and we would be happy to submit a
21 motion under Federal Rules of Civil Procedure
22 30(b)(1) and there's Supreme Court case law, NAACP v.
23 Alabama that places precedent as a compelling sort of
24 prevention of this disclosure.

25 MR. MOORE: Well, then you're going to

Brenda Murphy

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1 three members would be party to engaging in purposeful
2 racial discrimination?

3 A. Sir, I can't read the minds of those
4 individuals. I only can look at the outcome in terms
5 of the mapping and the results of who it has -- will
6 impact, not has the potential but will impact and that
7 is people that are black.

8 Q. And do you know if Representative Henegan
9 is African American?

10 A. I know she's African American, yes.

11 Q. Do you know if Mr. Bamberg is African
12 American?

13 A. I know he's African American.

14 Q. All right. And --

15 A. Also incumbent.

16 Q. And the person who attended this meeting
17 that you refuse to name, was that person an incumbent?

18 A. Yes.

19 Q. Okay. Is it Representative Jerry Govan?

20 MR. INGRAM: Objection. Not going to
21 disclose membership lists or names.

22 MR. MOORE: Well, Mr. Ingram, just so you
23 know, the documents that you provided us in discovery
24 last night and I'm going over them at the end of this
25 deposition, they provide us names and identifications of

Brenda Murphy

February 4, 2022

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1 members of the South Carolina State Conference of the
2 NAACP. So I do not believe that that is a valid
3 objection.

4 MR. INGRAM: If there are public
5 documents, you can point to names, by all means, but we
6 will not be confirming or denying any membership names
7 or lists.

8 Q. I didn't ask you for a list at this
9 point. I simply asked you if Representative Govan was a
10 person who attended this meeting for which there are no
11 minutes?

12 MR. INGRAM: I'm instructing my client
13 not to answer. That is an NAACP meeting and you're
14 asking my client to confirm a membership identity.

15 Q. Are you a member of the South Carolina
16 Conference of the NAACP, Ms. Murphy? Are you? I need
17 an answer, Ms. Murphy.

18 A. That is a rhetorical question.

19 Q. Well, it may be a rhetorical question but
20 it's a yes or no. Are you a member of the South
21 Carolina State Conference of the NAACP?

22 A. I am sitting before you as a member of
23 the South Carolina State Conference.

24 Q. And I believe that you have identified
25 yourself publicly in public hearings as a member of the

Brenda Murphy
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1 each of the challenged districts?

2 MR. INGRAM: Objection. I'm instructing
3 my client not to answer as it would disclose
4 confidential membership identity.

5 MR. MOORE: I didn't ask her for the
6 names of anyone, Mr. Ingram. I simply asked the
7 question -- and so I don't believe that objection is
8 well-founded.

9 (Simultaneous crosstalk.)

10 Q. My question is --

11 MR. MOORE: Are you instructing her not
12 to answer, Mr. Ingram?

13 MR. INGRAM: Correct.

14 Q. Okay. My question is without identifying
15 any person, okay, who spoke to a person who resided in
16 each of the challenged districts?

17 MR. INGRAM: Objection. I don't know how
18 you respond to that question without identifying a
19 person. Same objection about membership lists.

20 Q. Did you speak to anyone from any
21 challenged district, Ms. Murphy?

22 A. I have to answer that with more than
23 just a yes or no.

24 Q. Please answer my question and then
25 elaborate.

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1 Q. All right. So have you done a comparison
2 between the districts that are drawn in the current
3 House plan as enacted and the lines that were drawn in
4 2011? Have you done that?

5 A. No, I did not personally do that.

6 Q. Okay. Do you think that it might be wise
7 to look at that before making an allegation here?

8 A. I did not -- this is not a personal
9 plan of Brenda Murphy, sir. This is a plan that was
10 developed with input from individuals from the Sumter
11 area, from the Chester area, from the Anderson County
12 area. So this is not a Brenda Murphy plan.

13 Q. Who are the individuals from Anderson
14 County who gave you the information that --

15 A. I have said to you as much as I can.
16 The president, the leadership from the branches,
17 members of the branches. That is all I can say to
18 you, sir.

19 Q. I'm asking you for names, Ms. Murphy.
20 Can you give me any names?

21 MR. INGRAM: Objection. I'm instructing
22 my client not to answer. We've already been through
23 this. We're not giving you names of members of the
24 NAACP.

25 MR. MOORE: Well, you've already given me

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1 identified areas to discuss and identify potential
2 plaintiffs from those areas. Attorney Boykin and
3 Attorney Aden with LDF volunteered to work with the
4 plaintiffs to prepare them emotionally for testifying
5 during litigation should it become necessary.

6 So my question is did you along with
7 members of the SC NAACP Political Action Group go
8 through the identified areas to identify potential
9 plaintiffs?

10 A. I'm going to say there was an effort
11 made to do that but there was concerns voiced. I
12 never received a list, I know that, in terms of
13 identifying plaintiffs. So was that actualized? No.

14 Q. Okay. So when there was a concern
15 voiced, a concern voiced by whom?

16 A. About presidents regarding a listing of
17 names.

18 Q. How many people are members of the
19 SC NAACP Political Action Group?

20 A. I would say maybe ten.

21 Q. Okay. And who are those people?

22 MR. INGRAM: Objection insofar as these
23 are members of the NAACP whose names are not publicly
24 available. I'm instructing her not to answer --

25 Q. I'd also like you to look at the last