

FILED

STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
WAKE COUNTY WAKE CO., C.S. (SUPERIOR COURT DIVISION
18 CVS 15292

JABARI HOLMES, FRED CULP,)
DANIEL E. SMITH, BRENDON)
JADEN PEAY, and PAUL)
KEARNEY, SR.,)

Plaintiffs,

v.

ORDER

TIMOTHY K. MOORE *in his official*)
capacity as Speaker of the North)
Carolina House of Representatives;)
PHILIP E. BERGER *in his official*)
capacity as President Pro Tempore)
of the North Carolina Senate;)
DAVID R. LEWIS *in his official*)
capacity as Chairman of the House)
Select Committee on Elections for)
the 2018 Third Extra Session;)
RALPH E. HISE *in his official*)
capacity as Chairman of the Senate)
Select Committee on Elections for the)
2018 Third Extra Session; THE)
STATE OF NORTH CAROLINA; and)
THE NORTH CAROLINA STATE)
BOARD OF ELECTIONS,)

Defendants.

THIS MATTER comes before the undersigned three-judge panel upon Plaintiffs' Motion in Limine to Exclude the Testimony of Kimberly Strach, Motion in Limine to Exclude the Testimony of Professor M.V. Hood III, and Motion in Limine to Exclude in Part the Expert Opinions of Professor Keegan Callahan; and Legislative Defendants' Motion in Limine to Exclude Reports and Testimony of Plaintiffs' Experts, Motion in Limine to Exclude Hearsay Report and Certain Non-Expert

Witness Testimony, and Motion in Limine to Exclude Rebuttal Report and Testimony of Dr. Eitan Hersh.

The parties filed their respective motions in limine and supporting exhibits on March 2, 2021. Oppositions to the motions were submitted on March 16, 2021, and replies were submitted on March 23, 2021, pursuant to the scheduling order entered by this Court on September 2, 2020.

A motion in limine seeks “pretrial determination of the admissibility of evidence proposed to be introduced at trial.” *State v. Tate*, 44 N.C. App. 567, 569, 261 S.E.2d 506, 508 (1980). The trial court has wide discretion in making its advance ruling upon a motion in limine. *Hamilton v. Thomasville Med. Assocs.*, 187 N.C. App. 789, 792, 654 S.E.2d 708, 710 (2007). Such a ruling “is not a final ruling on the admissibility of the evidence in question;” but rather, the court’s ruling on a motion in limine is interlocutory and subject to modification during the course of the trial. *Heatherly v. Indus. Health Council*, 130 N.C. App. 616, 619, 504 S.E.2d 102, 105 (1998).

After considering the motions in limine, the parties’ responsive briefs, and the matters contained therein, and having reviewed the record proper, the Court, in its discretion denies Plaintiffs’ and Legislative Defendants’ motions in limine. The parties may still raise objections to the evidence in question during trial.

Wherefore, the Court hereby ORDERS that Plaintiffs' Motions in Limine and Legislative Defendants' Motions in Limine are DENIED without prejudice to the parties raising the same objections at trial.

This the 31ST day of March, 2021.

Nathaniel J. Poovey
Nathaniel J. Poovey, Superior Court Judge

/s/ Michael J. O'Foghludha
Michael J. O'Foghludha, Superior Court Judge

/s/ Vince M. Rozier, Jr.
Vince M. Rozier, Jr., Superior Court Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the persons indicated below

via e-mail transmission addressed as follows:

Allison J. Riggs
Jeffrey Loperfido
SOUTHERN COALITION FOR SOCIAL JUSTICE
1415 W. Highway 54, Suite 101
Durham, NC 27707
allison@southerncoalition.org
jeff@southerncoalition.org
Counsel for Plaintiffs

Andrew J. Ehrlich
David Giller
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
1285 Avenue of the Americas
New York, NY 10019-6064
aehrich@paulweiss.com
dgiller@paulweiss.com
Counsel for Plaintiffs

Paul D. Brachman
Jane O'Brien
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
2001 K Street, NW
Washington, DC 20006-1047
pbrachman@paulweiss.com
jobrien@paulweiss.com
Counsel for Plaintiffs

Nicole Moss
David Thompson
Peter Patterson
COOPER & KIRK, PLLC
1523 New Hampshire Avenue, NW
Washington, DC 20036
nmoss@cooperkirk.com
dthompson@cooperkirk.com
ppatterson@cooperkirk.com
Counsel for Legislative Defendants

Nathan A. Huff
PHELPS DUNBAR LLP
GlenLake One
4140 ParkLake Avenue, Suite 100
Raleigh, NC 27612
nathan.huff@phelps.com
Counsel for Legislative Defendants

Amar Majmundar
Olga E. Vysotskaya de Brito
Paul M. Cox
N.C. DEPARTMENT OF JUSTICE
P.O. Box 629
Raleigh, NC 27602
amajmundar@ncdoj.gov
ovysotskaya@ncdoj.gov
pcox@ncdoj.gov
Counsel for the State and State Board Defendants

Service is made upon local counsel for all attorneys who have been granted pro hac vice admission, with the same effect as if personally made on a foreign attorney within this state.

This the 31 day of March 2021.



Kellie Z. Myers
Trial Court Administrator, 10th Judicial District
kellie.z.myers@nccourts.org