

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA DEMOCRATIC
PARTY; et al.,

Plaintiffs,

v.

PHILLIP E. BERGER, in his official
capacity as PRESIDENT PRO TEMPORE
OF THE NORTH CAROLINA SENATE;
et al.,

Defendants.

CIVIL ACTION NO. 1:17-cv-1113

NOTICE OF DEPOSITION OF DALLAS WOODHOUSE

PLEASE TAKE NOTICE that Plaintiffs, by and through their undersigned counsel, will take the deposition upon oral examination pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, of Dallas Woodhouse on April 23, 2018 at 10:00 a.m. at the offices of Poyner Spruill LLP, 301 Fayetteville St., Suite 1900, Raleigh NC 27601.

The deposition will be taken before a notary public or some other officer authorized by law to administer oaths. The deposition will begin at 10:00 a.m. and will continue until completion.

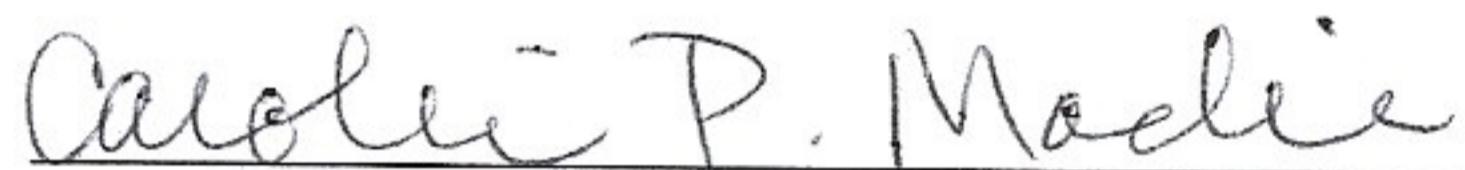
This the 9th day of April, 2018.

WALLACE & NORDAN LLP

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*Counsel for Plaintiff N.C. Democratic
Party*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Notice of Deposition of Dallas Woodhouse by U.S. mail and e-mail to the following:

JOSHUA H. STEIN
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Attorneys for Kimberly Strach, in her official capacity as Executive Director of The North Carolina Bipartisan State Board of Elections and Ethics Enforcement

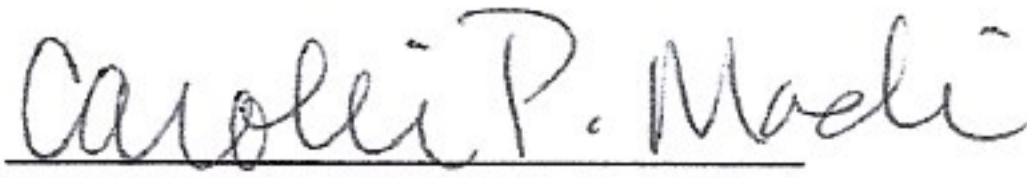
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Attorneys for Philip E. Berger, in his official capacity as President Pro Tempore of the North Carolina Senate, and Timothy K. Moore, in his official capacity as Speaker of the North Carolina House of Representatives

This the 9th day of April, 2018.


Caroline P. Mackie

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

North Carolina Democratic Party, et al.

Plaintiff

v.

Phillip E. Berger, et al.

Defendant

Civil Action No. 1:17-cv-1113

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Dallas Woodhouse

(Name of person to whom this subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Poyner Spruill LLP, 301 Fayetteville St., Suite 1900, Raleigh NC 27601	Date and Time: 04/23/2018 10:00 am
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The deposition will be recorded by this method: Stenographic

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: See Attachment A.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 04/09/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Plaintiffs

, who issues or requests this subpoena, are:

Edwin M. Speas, Jr./Caroline Mackie, Poyner Spruill LLP, 301 Fayetteville St., Suite 1900, Raleigh, NC 27601; Tel. No. 919-783-6400; cmackie@poynerspruill.com

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Subpoena to
Dallas Woodhouse by U.S. mail and e-mail to the following:

JOSHUA H. STEIN
Attorney General

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*Attorneys for Kimberly Strach, in her
official capacity as Executive Director of
The North Carolina Bipartisan State Board
of Elections and Ethics Enforcement*


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*Attorneys for Philip E. Berger, in his
official capacity as President Pro Tempore
of the North Carolina Senate, and Timothy
K. Moore, in his official capacity as
Speaker of the North Carolina House of
Representatives*

This the 9th day of April, 2018.


Caroline P. Mackie

ATTACHMENT A TO APRIL 9, 2018 SUBPOENA TO DALLAS WOODHOUSE

DEFINITIONS

For purposes of this Subpoena, the following definitions shall apply except as otherwise required by context:

1. The term “document,” whether singular or plural, is used herein in the broadest sense of the term and means each and every writing of whatever nature, and shall mean the original and any draft or copy that differs in any way from the original of any written or graphic matter, however produced or reproduced, and shall mean, without limitation, each and every tangible thing from which information can be processed or transcribed from disk, diskette, compact disc, tape or some other electronic media or data computations. The term includes, but it is not limited to, letters, electronic mail (“email”) and any attachments, messages, social media posts, text messages, facsimile transmissions, telegrams, memoranda, telex messages, reports, books, agreements, correspondence, contracts, financial statements, instruments, ledgers, journals, accountings, minutes of meetings, payrolls, studies, calendar and diary entries, notes, charts, schedules, tabulations, maps, work papers, brochures, evaluations, memoranda of telephone conversations, audio and video tape recordings, internal communications, bills, tapes, computer printouts, drawings, designs, diagrams, exhibits, photographs, reproductions, any marginal comments appearing on any document and copies of documents which are not identical duplicates of the originals (e.g., because handwritten or “blind copy” notes or notations appear thereon or are attached thereto). The term “document(s)” includes the defined term “Electronically-Stored Information,” which is defined below. The term “document” specifically seeks the production of Electronically-Stored Information in native format.
2. The term “Electronically-Stored Information” or “ESI” shall mean any and all electronic data or information stored on a computing device. Information and data is considered “electronic” if it exists in a medium that can only be read through the use of computing device. This term includes but is not limited to databases; all text file and word-processing documents (including metadata); presentation documents; spreadsheets; graphics, animations, and images (including but not limited to “JPG, GIF, BMP, PDF, PPT, and TIFF files); email, email strings, and instant messages (including attachments, logs of email history and usage, header information and “deleted” files); email attachments; calendar and scheduling information; cache memory; Internet history files and preferences; audio; video, and audiovisual recordings; voicemail stored on databases; networks; computers and computer systems; computer system activity logs; servers; archives; back-up or disaster recovery systems; hard drives; discs; CD’s; diskettes; removable drives; tapes; cartridges and other storage media; printers; scanners; personal digital assistants; computer calendars; handheld wireless devices; cellular telephones; pagers; fax machines; and voicemail systems. This term includes but is not limited to on-screen information, system data, archival data, legacy data, residual data, and metadata that may not be readily viewable or accessible, and all file fragments and backup files.

3. This Subpoena further requests the forensic copying and examination of ESI, as well as for the production of ESI. The purpose of obtaining ESI from you is to obtain all meta-data, residual data, file fragments, and other information that is not reasonably accessible for forensic examination of authenticity. Any storage device that contains, or may contain, ESI requested shall be produced for forensic copying and examination. Forensic copying usually may be done on-site, without taking possession of your computing devices, at minimal inconvenience, cost, or interruption to you. The forensic copying will eliminate the need for you to search all storage devices or sift through a vast amount of information. Once forensic copies are made, the parties may agree on search terms to reduce costs and to preserve privacy of non-discoverable information. You are encouraged to comply reasonably and to confer immediately with the undersigned counsel for an agreement on each party's respective rights and responsibilities.

**LIST OF DOCUMENTS AND THINGS TO BE PRODUCED PURSUANT TO THIS
SUBPOENA**

1. All documents, including but not limited to electronic communications in the form of emails, texts, and tweets, concerning or relating to the elimination of judicial primaries and/or 2017 Session Law 214 between or among you and Sen. Philip Berger, Rep. Timothy Moore, Sen. Ralph Hise, Rep. David Lewis, and/or Rep. Justin Burr.
2. All documents and drafts of documents relating to any NCGOP resolution regarding the elimination of judicial primaries in 2018.

PNC Bank



66-85/531

Date **264731**
 04/09/2018
 Void After 90 Days

Pay: Forty-one and 62/100***** \$ ****41.62***

PAY TO THE ORDER OF: Dallas Woodhouse
 1506 Hillsborough St.
 Raleigh, NC 27605

Jack Z. Stuebe Jr.

RE:

TWO SIGNATURES REQUIRED IF OVER \$10,000

⑈ 264731 ⑆ ⑆ 054000030 ⑆ ⑆ 5321050642 ⑆

Payee: Dallas Woodhouse
 Vendor ID: 26410

Check #: 264731
 Check Date: Apr 09/18

Invoice Num	Invoice Date	Voucher ID	Narrative	Payment Amt
0409180138	Apr 09/18	1645849	LH - Serve Federal Witness and Mileage Fee for Subpoena re: NCDP v. Berger	\$41.62
		<u>Client.Matter</u>	<u>Disb ID</u>	<u>Amount</u>
		303532.00002000	1140202	41.62
			Total Disb	41.62
			Total:	\$41.62