

STATE OF NORTH CAROLINA FILED  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
14-CVS-\_\_\_\_\_

2014 OCT -6 P 4: 53

JANE R. MORTON, RICHARD F. SCHOU, )  
JOANNA M. UNDERWOOD, NEIL S. )  
UNDERWOOD, and EVAN T. WISE, )  
*Petitioners,* )

v. )

THE STATE OF NORTH CAROLINA; )  
THE NORTH CAROLINA STATE BOARD )  
OF ELECTIONS; JOSHUA B. HOWARD, )  
in his official capacity as a member of the )  
State Board of Elections; RHONDA K. )  
AMOROSO, in her official capacity as a )  
member of the State Board of Elections; )  
JOSHUA D. MALCOLM in his official )  
capacity as a member of the State Board of )  
Elections; PAUL J. FOLEY, in his official )  
capacity as a member of the State Board of )  
Elections; MAJA KRICKER, in her official )  
capacity as a member of the State Board of )  
Elections; MARSHA H. JORDAN, in her )  
official capacity as a member of the Lincoln )  
County Board of Elections; WAYNE E. )  
MITCHEM, in his official capacity as a )  
member of the Lincoln County Board of )  
Elections; and CHARLES E. NEWMAN, in )  
his official capacity as a member of the )  
Lincoln County Board of Elections, )  
*Respondents.* )

**PETITION FOR JUDICIAL REVIEW**

[N.C. Gen. Stat. § 163-22]

NOW COME Petitioners, by and through undersigned counsel, and hereby file this  
Petition for Judicial Review of Respondents' adoption of the Lincoln County One-stop  
Implementation Plan ("Plan") to determine whether Respondents abused their discretion by  
adopting such Plan for Lincoln County. For their Petition, Petitioners say and allege as follows:

## THE PARTIES, JURISDICTION, AND VENUE

1. Petitioner Jane R. Morton is a citizen and resident of, and is registered to vote in, Lincoln County, North Carolina.
2. Petitioner Richard F. Schou is a citizen and resident of, and is registered to vote in, Lincoln County, North Carolina.
3. Petitioner Joanna M. Underwood is a citizen and resident of, and is registered to vote in, Lincoln County, North Carolina.
4. Petitioner Neil S. Underwood is a citizen and resident of, and is registered to vote in, Lincoln County, North Carolina.
5. Petitioner Evan T. Wise is a citizen and resident of, and is registered to vote in, Lincoln County, North Carolina.
6. Respondent Joshua B. Howard is the Chairman and a member of the State Board of Elections (“SBE”), which is responsible for administering North Carolina’s election laws. Mr. Howard is sued in his official capacity.
7. Respondent Rhonda K. Amoroso is the Secretary and a member of the SBE, which is responsible for administering North Carolina’s election laws. Ms. Amoroso is sued in her official capacity.
8. Respondent Joshua D. Malcolm is a member of the SBE, which is responsible for administering North Carolina’s election laws. Mr. Malcolm is sued in his official capacity.
9. Respondent Paul J. Foley is a member of the SBE, which is responsible for administering North Carolina’s election laws. Mr. Foley is sued in his official capacity.

10. Respondent Maja Kricker is a member of the SBE, which is responsible for administering North Carolina's election laws. Ms. Kricker is sued in her official capacity.

11. Respondent Marsha H. Jordan is a member of the Lincoln County Board of Elections ("LCBE"), which is responsible for administering election laws in Lincoln County, North Carolina. Ms. Jordan is sued in her official capacity.

12. Respondent Wayne E. Mitchem is a member of the LCBE, which is responsible for administering election laws in Lincoln County, North Carolina. Mr. Mitchem is sued in his official capacity.

13. Respondent Charles E. Newman is a member of the LCBE, which is responsible for administering election laws in Lincoln County, North Carolina. Mr. Newman is sued in his official capacity.

14. The SBE is a State agency charged with general supervision over the primaries and elections in this State. N.C. Gen. Stat. § 163-22(a). SBE is headquartered in Wake County and consists of five members appointed by the Governor of North Carolina to four-year terms. N.C. Gen. Stat. §§ 163-19 and 163-20.

15. SBE has the responsibility of adopting an early voting plan, referred to in the law as a one-stop implementation plan, for a county if the three-member county board of elections cannot agree unanimously on a plan. N.C. Gen. Stat. § 163-227.2(g).

16. SBE is required, when adopting an early voting plan for a county, to "take into consideration factors including geographic, demographic, and partisan interests of the county." N.C. Gen. Stat. § 163-227.2(g).

17. SBE may adopt an early voting plan that does not have an early voting site at the county board of elections only if the plan includes a site that is reasonably proximate to the county board of elections office and Respondent “finds that the sites in the Plan as a whole provide adequate coverage of the county’s electorate.” N.C. Gen. Stat. § 163-227.2(g).

18. N.C. Gen. Stat. § 163-22(1) requires a person who seeks judicial review of a decision of Respondents rendered in the performance of Respondents’ duties or in the exercise of Respondents’ powers under Chapter 163 of the North Carolina General Statutes to file a petition in the Superior Court Division of the General Court of Justice for Wake County.

19. Respondents’ decision to adopt the Plan for Lincoln County was rendered both in the performance of Respondents’ duty and in the SBE’s exercise of its authority under N. C. Gen. Stat. § 163-227.2(g) to adopt an early voting plan for a county when the local board of elections cannot reach unanimous agreement on a plan.

20. The provisions of N.C. Gen. Stat. § 163-22(1) establishing the jurisdiction and venue for a review of SBE’s decisions applies “[n]otwithstanding any other provision of law.”

21. The Wake County Superior Court is therefore the proper court for judicial review of Respondent’s adoption of the Plan.

22. The Court has personal jurisdiction over all parties.

## FACTUAL ALLEGATIONS

23. Under the Plan, in connection with the upcoming election that will be conducted on November 4, 2014, there are currently scheduled five locations in Lincoln County where a registered voter may cast his or her ballot during the “one stop” early-voting period.

24. Attached as Exhibit 1 is a true and accurate copy of a schedule created by and/or promulgated by the LCBE, which shows the dates and times during which the early-voting locations will be open is attached as Exhibit 1 (the “Schedule”).

25. The Schedule identifies the five early-voting locations as (1) Lincolnton; (2) West Lincoln; (3) East Lincoln; (4) Denver; and (5) Pumpkin Center.

26. Four of the early-voting locations (namely West Lincoln, East Lincoln, Denver, and Pumpkin Center) are scheduled to open at either 8 a.m. or 9 a.m. on all of the days on which they will be open for early voting. Moreover, all four of those locations are scheduled to remain open until 5 p.m. every day (except for their last day of operation, when all early-voting locations in Lincoln County will close at 1p.m.).

27. In contrast, the Lincolnton early-voting location, which is the only site reasonably proximate to the county board of elections office, is never scheduled to be open any earlier than 11 a.m., nor to remain open any later than 4 p.m. (except for its last day of operation, on which it is scheduled to open at 10 a.m. and close at 1 p.m.).

28. Evan T. Wise is a registered voter in Lincoln County, North Carolina and has voted early in numerous recent elections. The early-voting location that is closest to Mr. Wise’s residence is the Lincolnton location. Mr. Wise works as a baseball coach at a university in Hickory, North Carolina. If the Lincolnton location is open only from 11 a.m. to 4 p.m., he will

not be able to vote early at the Lincolnton location, nor will he have time available to travel to one of the other locations and still make it to work on time. On Tuesdays and Thursdays, Mr. Wise would have time available to vote at 9 a.m. at the Lincolnton location (if it were scheduled to be open at 9 a.m., which it is not) and then go straight to work.

29. Richard Schou is an emergency services director for the American Red Cross who works in Charlotte. He has to report to work at 8 a.m., and he gets off work at 5 p.m. Mr. Schou strongly prefers to use early voting because he can never be certain when he might be called away for an emergency, so he cannot guarantee that he will be in Lincoln County on election day. Although Mr. Schou does not routinely work on Saturday, he could be called away for an emergency at any time, so the Saturday hours may or may not give him an opportunity to cast his ballot. Extended hours beyond 5 p.m. would give him a reasonable opportunity to vote.

30. Jane Morton is a teacher at Pumpkin Center Elementary School. The early-voting location that is closest to the Ms. Morton's residence is the Lincolnton location. If the Lincolnton location is open only from 11 a.m. to 4 p.m., Ms. Morton will not be able to vote early at the Lincolnton location.

31. Neil Underwood and Joanna Underwood are a married couple. Ms. Underwood is the choir director and Mr. Underwood is the band director at North Lincoln High School. The early-voting location that is closest to the Underwoods' residence is the Lincolnton location. If the Lincolnton location is open only from 11 a.m. to 4 p.m., the Underwoods will not be able to vote early at the Lincolnton location. The Underwoods would have time available to vote at the Lincolnton location if it were scheduled to be open in the early morning, which it is not, and then go straight to work.

32. The Plan adopted by Respondents does not provide adequate coverage of the county's electorate, including but not limited to the fact that the Plan adopted by Respondents prevents many working people from being able to participate in early voting at the Lincolnton location.

33. Based on the publicly available records on the State Board of Elections website, the Lincoln County one-stop plan is the only plan in the state in which the site alternative to the county board of elections office is open for four fewer hours than the regularly scheduled business hours for that office. The Lincoln County one-stop plan is an arbitrary and discriminatory decision inconsistent with state law requirements because the site reasonably proximate to the County Board of Elections office is open for severely limited hours.

WHEREFORE, Petitioners respectfully pray the Court for the following relief:

1. That this Petition for Judicial Review be accepted;
2. That the Court find and conclude that the Plan adopted by Respondents does not provide adequate coverage of the county's electorate;
3. That the Court vacate any Order by Respondents adopting the Plan and remand this matter to the SBE and/or other Respondents with instructions to adopt a new plan that provides adequate coverage of the county's electorate, including but not necessarily limited to additional hours for early voting at the Lincolnton early-voting location; and
4. That the Court grant such other and further relief as the Court deems necessary or appropriate.

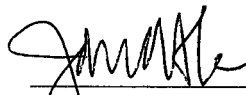
Respectfully submitted, this the 6<sup>th</sup> day of October, 2014.

**SOUTHERN COALITION FOR SOCIAL JUSTICE**

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# LINCOLN COUNTY BOARD OF ELECTIONS

## NOVEMBER 4TH, 2014 GENERAL ELECTION

### ONE-STOP VOTING LOCATIONS DAYS AND HOURS OF OPERATION

DATE	LINCOLN	WEST LINCOLN	EAST LINCOLN	DENVER	PUMPKIN CENTER
Thursday, October 23, 2014	Senior Ctr/Gaston College Multipurpose Room 514 S Academy St	Northbrook Comm Ctr Multipurpose Room 568 Highway 274 ***MOVED LOCATION***	East Lincoln Recreation Community Center 8160 Optimist Club Rd	Denver Fire Dept Multipurpose Room 3956 N Highway 16 *** NEW LOCATION***	Pumpkin Ctr Fire Dept Multipurpose Room 2911 Lee Lawing Rd *** NEW LOCATION***
Thursday, October 23, 2014	11:00am - 4:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm
Friday, October 24, 2014	11:00am - 4:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm
Saturday, October 25, 2014	Closed	8:00am - 5:00pm	8:00am - 5:00pm	8:00am - 5:00pm	8:00am - 5:00pm
Monday, October 27, 2014	11:00am - 4:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm
Tuesday, October 28, 2014	11:00am - 4:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm
Wednesday, October 29, 2014	11:00am - 4:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm
Thursday, October 30, 2014	11:00am - 4:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm
Friday, October 31, 2014	11:00am - 4:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm	9:00am - 5:00pm
Saturday, November 01, 2014	10:00am - 1:00pm	8:00am - 1:00pm	8:00am - 1:00pm	8:00am - 1:00pm	8:00am - 1:00pm

