To: Leader Pelosi

From: Marc Elias

RE: Redistricting Update

**Florida**

Our two and one-half week Florida state court trial concluded on June 4, 2014. Since then the parties have filed post-trial briefs, including Proposed Findings of Fact and Conclusions of Law. We believe that we made a very strong case that partisan intent infected the redistricting process, which included emails to and among Republican operatives and expert testimony on the extreme partisan effects of the map. The trial court judge took a lot of notes, but he gave no indication which way he was leaning. He indicated he will rule quickly, likely by the end of June. In the event we win on liability, we have asked the Court to immediately convene the parties to determine a remedy. We are working to develop a remedy map that is based on an earlier draft map from the Florida Legislature but that fixes a few key areas we consider fundamental to our state constitutional claims. Meanwhile, the Florida federal court ordered us to complete the state court trial and then submit all evidence from the state court case we think is relevant to the federal court¹s determination. The Court has indicated it will consider a trial or hearing once it has reviewed the state court evidence. We are also in the process of preparing a motion for summary judgment in federal court, which we aim to file within the next couple of weeks.

**Virginia**

Recall that Defendants moved to dismiss our case on summary judgment back in December of 2013. We filed a comprehensive opposition. Defendants¹ summary judgment motion was denied, and the case was scheduled for trial.

Our two-day bench trial concluded on May 21st. Trial was conducted before a three-judge panel. We believe our case was quite strong that race was the predominant factor in drawing CD 3 and that it was not required by the Voting Rights Act. Our key evidence included testimony that the Virginia General Assembly applied a 55% BVAP quota without conducting any racially polarized voting analysis, and statements from the lead map-drawer that he did not consider politics in drawing the districts. The presiding district court judge, Judge Payne, has not appeared favorable to our position. Judge Duncan, an appellate judge on the Fourth Circuit, seemed more inclined to find in our favor. Judge O¹Grady, a district court judge, said very little, making it difficult to read him. The Court ordered post-trial briefing. We submitted our brief two weeks ago, Defendants response was submitted on Friday, June 20, and our reply is due this coming Friday. If the Court determines oral argument is necessary, it will be held on July 22, 2014.

**North Carolina**

Though the Court has expressed interest in the merits of the case it is not moving as quickly as hoped. It denied Defendants¹ motion to stay the case pending resolution of the state court action, noting that it wasn¹t clear the North Carolina state court was going to act in a timely fashion.

It further stated that we have ³marshaled both circumstantial and direct evidence that race was the predominant factor in North Carolina¹s redistricting plan.² Howver, it has not been willing to stay the election based on only a preliminary finding of liability. There is currently a summary judgment briefing schedule for this summer and an August 4, 2014 trial date. The Courts actions strongly suggest that it is unlikely to act in time for the November election. That said, it may still rule in our favor on liability to allow for some relief down the road. Summary judgment motions have been filed on both sides, and briefing will conclude on July 3, 2014. If we lose on summary judgment, we likely will not proceed to trial, though of course it will depend on the Court¹s reasoning for denying summary judgment and resource decisions.