Voting Law Fact Sheet

Procedural Background on Attorney General Stein's Motion to Dismiss in appeal of NAACP vs. McCroy:

- Several days before he left office in 2016, Gov. Pat McCrory filed a petition for a writ of certiorari. That petition asked the U.S. Supreme Court to review and overturn last year's Fourth Circuit decision that struck down the voting legislation the General Assembly enacted in 2013. Then-Senator Josh Stein voted and argued against that legislation, which the Fourth Circuit wrote was "the most restrictive voting law North Carolina has seen since the era of Jim Crow."

- In its landmark ruling, the Fourth Circuit wrote that no legislature in the United States had "ever done so much, so fast, to restrict access to the franchise."

- In reviewing how the General Assembly passed the law in 2013, the Fourth Circuit found that legislators had requested data on the racial use of voting practices and then included provisions in the law that either limited or entirely eliminated practices heavily used by African Americans, such as early voting and same-day voter registration.

- The Fourth Circuit also found that, given the lack of evidence of in-person voter fraud in the state, the law's provisions, such as its voter ID requirement, were "solutions in search of a problem."

- In sum, Fourth Circuit found that in passing the law, the General Assembly intentionally set out to make it harder for African Americans to vote, and "target[ed] African Americans with almost surgical precision." Accordingly, the Fourth Circuit enjoined five provisions in the law that:
    - eliminated same-day voter registration,
    - reduced North Carolina's early-voting period,
    - precluded voters from casting provisional out-of-precinct ballots within their home county,
    - required North Carolinians voting in-person to present certain forms of identification at their polling place, and
    - discontinued preregistration of 16- and 17-year-olds who would reach qualifying voting age before the next election.

Excerpts from the Fourth Circuit's Decision

- "After years of preclearance and expansion of voting access, by 2013 African American registration and turnout rates had finally reached near-parity with white registration and turnout rates. African Americans were poised to act as a major electoral force. But, on the day after the Supreme Court issued Shelby County v. Holder, … , eliminating preclearance obligations, a leader of the party that newly dominated the legislature (and the party that rarely enjoyed African American support) announced an intention to enact what he characterized as an 'omnibus' election law. Before enacting that law, the legislature requested data on the use, by race, of a number of voting practices. **Upon receipt of the race data, the General Assembly enacted legislation that restricted voting and registration in five different ways, all of which disproportionately affected African Americans**."

- "In response to claims that intentional racial discrimination animated its action, the State offered only meager justifications. **Although the new provisions target African Americans with almost surgical precision, they constitute inapt remedies for the problems assertedly justifying them and, in fact, impose cures for problems that did not exist**."

- "Using race as a proxy for party may be an effective way to win an election. But **intentionally targeting a particular race's access to the franchise because its members vote for a particular party, in a predictable manner, constitutes discriminatory purpose**. This is so even absent any evidence of race-based hatred and despite the obvious political dynamics. **A state legislature acting on such a motivation engages in intentional racial discrimination in violation of the Fourteenth Amendment and the Voting Rights Act**."

- "When a legislature dominated by one party has dismantled barriers to African American access to the franchise, even if done to gain votes, 'politics as usual' does not allow a legislature dominated by the other party to re-erect those barriers."

- "**Indeed, neither this legislature – nor, as far as we can tell, any other legislature in the Country – has ever done so much, so fast, to restrict access to the franchise**."

- "In response, SL 2013-381 did away with one of the two days of Sunday voting. … Thus, **in what comes as close to a smoking gun as we are likely to see in modern times**, the State's very justification for a challenged statute hinges explicitly on race – specifically its concern that African Americans, who had overwhelmingly voted for Democrats, had too much access to the franchise."

- "Instead, this sequence of events – the General Assembly's eagerness to, at the historic moment of Shelby County's issuance, rush through the legislative process **the most restrictive voting law North Carolina has seen since the era of Jim Crow** – bespeaks a certain purpose."

- "On the one hand, the State has failed to identify even a single individual who has ever been charged with committing in-person voter fraud in North Carolina."

- "In many ways, the challenged provisions in SL 2013-381 constitute **solutions in search of a problem**."