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FEATURED

Our Journey to Voting by Mail-In Ballot in North Carolina in 2020

By Francis H. Morrison

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The advertisement features a dark blue background on the left with the LawPay logo and tagline: "POWERING PAYMENTS FOR THE LEGAL INDUSTRY". Below this, it reads "The easiest way to accept client payments online." To the right, a white payment form is shown with the following fields: "Trust Payment IOLTA Deposit", "Amount" (input field with "\$ 2,500.00"), "Reference" (input field with "NEW CASE"), and "Card Number" (input field with "***** 5555"). An orange "PAY ATTORNEY" button is at the bottom of the form. On the far right, the ABA logo and "AMERICAN BAR ASSOCIATION ABA Advantage PROUD ABA ADVANTAGE BENEFIT" are displayed.

My Voting Origins

For nearly fifty years running, my wife and I always voted in-person in our home state of Connecticut. In 2019, we moved to Charlotte, North Carolina, to be near grandchildren. We registered to vote on arrival, voted in-person in the fall of 2019, and voted in-person in the 2020 primaries. I, at least, assumed that I would vote in person again in the November election.

I still feel a tinge of patriotic pride whenever I vote. I am a Vietnam Era Navy veteran, the son of a WWII Navy veteran and father of a West Point graduate and decorated Army Iraqi combat veteran. Seeing those names on the ballot over the years—Nixon, Humphrey, Carter, Ford, Reagan, Bush, and Obama et al.—was tangible evidence of my belonging to our great country. The pride of casting my ballot has never gotten old, and—God willing that exhilaration—never will.

The 2020 Election in North Carolina

Then came the COVID-19 pandemic juxtaposed with a Presidential election of great interest and passion in which over 150 million Americans were destined to vote. Like many, we wanted to cast our votes, but we did not want to put ourselves at risk. COVID got us thinking—shouldn't we vote by mail-in ballot? Our church offered a one-hour Zoom presentation by Michael Dickerson, Director of Elections in Mecklenburg County, on voting in North Carolina. We signed up. Mr. Dickerson covered thoroughly, without passion or prejudice, the nuts and bolts of voting choices in North Carolina. The beginning, middle, and end of his presentation was one word—"VOTE." And we were determined to do so.

Opportunities to vote in North Carolina were plentiful. North Carolina offered conventional in person voting on election day; early voting from October 15 through 31 including weekends at 33 polling places in Mecklenburg County and Mail-In/Absentee voting.

At my wife's urging, we decided to put aside our longstanding practice of in-person voting and investigate the Mail-In/Absentee ballot option. We tuned out the heat of self-interested political attacks on mail-in voting by politicians we saw on video signing their own mail-ins with great flourish and apparent relish. That was before their epiphany that more mail-in ballots meant more votes and perhaps diminished prospects of victory. We noted and took to heart the bolded warning from The North Carolina State Board of Elections (NCSBE) **strongly encouraging voters to request a ballot as soon as possible to avoid problems due to postal delays and allow for time to correct any issues with your request.** We were very aware of reports that decreased USPS capacity to timely deliver the mail.

And we learned the rules regarding mail-in/absentee voting (found at www.ncsbe.gov), which clearly explained the mail-in ballot process and provided basically as follows:

- 1 The voter should obtain a ballot request form from one's county board of electors and submit it by email, fax, mail or in-person to one's county board of electors by 10/27 to receive a mail-in/absentee ballot;
- 2 The voter has the option to sign up for BallotTrax, a free service where voters could track the status of their ballots—more on that later;
- 3 Mail-in/absentee ballots were mailed to voters starting on 9/4/2020;
- 4 The voter must complete his or her ballot in the presence of one witness (a witness could be anyone but a candidate unless the candidate was related to the voter) and place it in the return envelope—the witness should not observe the voter's actual votes—the witness should see that the voter is voting on the ballot;
- 5 The voter must sign the outside of the return envelope and have the witness complete and sign the witness certification (which required the witness to list his or her name and address);
- 6 Only the voter or a near relative may possess the mail-in/absentee ballot to return it to the board of elections.

We also had four different options for how to return our mail-in/absentee ballot:

- 1 Ballots may be returned to the county board by mail, postmarked on or before 5:00 PM on 11/3 and received by the board by 5:00 PM on 11/12; or
- 2 Ballots could be returned by commercial courier service (DHL, FEDEX, or UPS) to the county board; or
- 3 Ballots could be physically dropped off in person at one's county board of elections by 5:00 PM on 11/3/2020; or
- 4 Ballots could be physically dropped off at any early voting site in one's county during voting hours between 10/15-10/31.



A 56% majority of voters now say they feel hopeful about the state of the U.S., up from 47% in June.

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Our Decision to Vote by Mail-In Ballot

As long-time in-person voters, my wife and I did not want to risk postal delays. We filled out mail-in ballot applications and sent them to the Mecklenburg County Elections Board by mail on 9/7/2020. We were pleased that our ballots arrived promptly; we got them by mail on 9/15/2020. We voted in each other's presence on 9/20/2020 without looking at our specific votes, and we witnessed each other's ballot envelopes. On 9/22/2020, I physically returned both ballots in their sealed and witnessed envelopes to the county board of elections. A staff person examined them in my presence on my arrival. I was required to sign a verification that we were husband and wife (which was required so that I could return my wife's ballot and my own). We avoided crowds—I would estimate that there were 10 voters in a social distanced line returning ballot envelopes when we returned our ballots. And later that same day, we got confirmation—in the form of a BallotTrax text message—that our ballots had been accepted. (Completed BallotTrax report from NCSBE attached.)

For us, the process went off without any difficulty whatsoever, and we were 100% confident that our votes counted—which was important to us where there were some close races (e.g., the presidential race in our state was decided by only about 70,000 votes out of 5.2 million votes cast). Our assessment of the importance of mail-in voting to vote absentee was confirmed by loud political attacks on the USPS, including the President urging North Carolina voters not to vote by mail-in and if they had done so, to try to vote again in-person on election day. The COVID-19 pandemic certainly played a role in our decision—we were able to avoid the long lines and increased COVID exposure from expected crowds.

Additionally, the aphorism that “old habits die hard” played a role in my taking advantage of the opportunity to physically deliver our ballots to the county election board. My Navy shipboard experience taught me, sometimes painfully, that being on time was critical—which often meant early personal preparation and personally taking care of business. That training served me well through 45 years as a trial lawyer—there is no second-place trophy for arriving in the courtroom after the judge. So, while I missed that special moment of personally marking my ballot in a voting place filled with palpable anticipation, physically handing the ballot envelopes over for inspection and certifying that I was in the permitted category of persons permitted to deliver my wife's ballot still produced a tingle for me. We both expect we will vote by mail-in the next time.

The Verdict on Mail-Ins in North Carolina in 2020

There has not yet been any purportedly scientific analysis of mail-in voting in North Carolina in 2020, but some of the raw data is interesting and perhaps provides some light, rather than the heat with which we have been bombarded this election season. NCSBE's website reports that as of 11/14/2020 there were some estimated 7,371,107 eligible voters, of whom 74.5% cast ballots. Of the 5.5 million votes cast, 1,000,410 were Absentee By-Mail ballots—a testament to the popularity and simplicity of voting by mail-in ballot in North Carolina in 2020. Of the remaining voter categories, as of 11/14, there were 3,627,799 one stop early voting ballots cast and only 900,000 ballots were cast on election day.

In addition, as of 11/11/2020, of all of the voters who requested mail-in ballots, 93,000 had not returned them. That number did not account for voters who requested a mail-in ballot but who instead voted in person on election day. Mail-in ballots had to be received by 5:00 PM on 11/12 to be valid and counted.

For comparison purposes, in 2016 there were approximately 200,000 mail-in absentee ballots. North Carolina and North Carolinians seem to have adapted well to an unusual election.

An Interesting Non-Scientific Post Election Survey

Interestingly, a Patch Reader Informal Non-Scientific Survey entitled “NC Voting Was Fair, Accurate: Results of Patch Reader Survey” (<https://patch.com/north-carolina/charlotte/nc-voting-was-fair-accurate-results-patch-readers-survey>) had some interesting observations about the 2020 North Carolina Election. Patch is an online news service in Mecklenburg County.

It conducted an informal, non-scientific survey of 159 North Carolina voters “to gauge the sentiments of our readers in an informal way.” Patch found that 63.3% voted early and in person. It reported that nearly 22% voted by mailing in a ballot with 6.3% dropping off

their absentee ballot. (pg. 4 of 13). Interestingly, Patch reported that 52% strongly agreed that voting by mail should be easier in the future while 19% strongly disagreed.

The results of its survey, which had a very small sample size of 158 (one survey participant did not vote) also concluded that 70 percent either strongly or somewhat agreed that the 2020 North Carolina elections were fair and accurate and that 21 percent either strongly or somewhat disagreed that the elections were fair and accurate. (pg. 8 of 13).

Some Final Thoughts

Count me among the 70 percent in the survey. My wife and I kept our social distance, avoided the lines, and received written confirmation that our ballots had been accepted. Our voices were heard, and I felt the tingle of participating in a consequential election. We will almost certainly vote by mail-in/absentee ballot again. Our mail-in ballot experience was that it was safe, simple, fair, and well-explained with tangible evidence that our ballots were received, accepted, and voted. That is as good as it gets—whether one's candidate wins or not!

Author

Francis H. Morrison is a partner at Axinn, Veltrop & Harkrider, LLP in its Connecticut office. He graduated from the College of the Holy Cross (A.B. 1969) and served as a line officer (duties in weapons, ship's legal and cryptography) in the US Navy on USS Grand Canyon (AR-28) (1969-72). He graduated from Duke University Law School in 1975 (with distinction, Note and Comment Editor, Duke Law Journal). He then practiced trial work at Day, Berry & Howard, LLP (nka Day Pitney, LLP) for 32 years before joining his present firm in 2007.

His trial work has included bench and jury trials in the following areas: patents (pharma, electrical engineering and plasma physics); trade secrets; trademark; products liability (aviation accidents; mechanical failures and toxic torts); professional medical liability; insurance fraud and bad faith claims; governmental corruption claims; commercial disputes and personal injury cases. He served a term as Corporation Counsel in West Hartford, Connecticut. He is a Fellow, American College of Trial Lawyers; certified by the National Board of Trial Advocates and ranked in Chambers for commercial litigation.

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