

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JEFFREY THOMAS, JR.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:22-cv-427
)	
SUSAN BEALS, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**DEFENDANTS’ MOTION FOR IMMEDIATE STATUS CONFERENCE AND FOR
RELIEF FROM JUNE 13, 2022 ORDER DUE TO AMENDED COMPLAINT**

Defendants Susan Beals, in her official capacity as Commissioner of the Virginia Department of Elections, and Robert Brink, in his official capacity as Chairman of the Virginia State Board of Elections (“Defendants”), respectfully move the Court for relief from the Court’s June 13, 2022 Order, and for an immediate status conference to set a new briefing schedule in light of the Amended Complaint filed by Plaintiff on June 16, 2022. In support of their Motion, Defendants state as follows:

1. Plaintiff Jeffrey Thomas filed a Petition for Writ of Mandamus on June 8, 2022.
2. That same day, Plaintiff requested that Defendants waive service pursuant to FRCP 4.
3. Defendants returned an executed waiver of service on June 8, 2022, the same day Defendants received such request. (ECF No. 9.)
4. Plaintiff also filed a proposed scheduling order that would have required Defendants to respond to his petition within forty-eight hours of receipt of the petition. (ECF No. 3).

5. The Court held a status conference on June 13, during which it set a briefing schedule and other deadlines. On June 13, the Court issued an Order setting the briefing schedule. (ECF No. 10).
6. On June 16, 2022, Plaintiff filed an Amended Complaint (ECF No. 14).¹
7. The Amended Complaint adds two individuals as Plaintiffs, apparently in *pro se* capacities. The Amended Complaint further adds the Virginia Department of Elections as a Defendant.
8. Finally, the Amended Complaint apparently abandons Plaintiff's initial requested relief—a writ of mandamus—and instead asserts two counts: a violation of the equal protection clause of the U.S. Constitution, and a violation of the Voting Rights Act.
9. Plaintiff's Amended Complaint materially alters the scope (number of parties) and substance (different claims than initially asserted) of this case—including the addition of a new legal claim wholly unrelated to any claim previously considered in any litigation relating to the 2021 General Assembly election.
10. Plaintiff's Amended Complaint also upends this Court's June 13 Order (ECF No. 10), which set a deadline of tomorrow, June 17, to file factual stipulations,² and a deadline of June 24 by which Defendants must file a motion to dismiss. It does so a mere three

¹ Plaintiffs listed in the Amended Complaint have not served Defendant Virginia Department of Elections with the Amended Complaint, sought a waiver of service, or asked the undersigned to accept service. Mr. Thomas emailed the undersigned an unsigned version of the Amended Complaint at 11:39 a.m. on June 16. The Amended Complaint filed with the Court is different from the version Mr. Thomas initially emailed to counsel for Defendants.

² Mr. Thomas sent a draft of initial stipulations at 2:16 a.m. on Wednesday June 15. Defendants responded with proposed revisions at 1:47 p.m. on Wednesday June 15. Mr. Thomas sent further revisions on Thursday June 16 at 12:06 a.m.

days after Plaintiff induced this Court to set an extraordinarily expedited schedule for briefing motions to dismiss his original petition.

11. Accordingly, Defendants move this Court for relief from the deadlines set in the June 13, 2022 Order (ECF No. 10), and an immediate status conference to address Plaintiff's Amended Complaint and set a new schedule for the filing of factual stipulations and briefing which accounts for the novelty of Plaintiff's new legal theories and factual assertions.

12. Defendants sought Plaintiff's agreement to a revised schedule, but Plaintiff refused.

WHEREFORE, Defendants respectfully request relief from the deadlines set in the June 13, 2022 Order and an immediate status conference to address the Amended Complaint, to set a revised schedule for factual stipulations and briefing, and any other relief that the Court deems proper and just.

SUSAN BEALS and ROBERT BRINK, in
their official capacities

By: /s/ Steven G. Popps
Andrew N. Ferguson (VSB No. 86583)
Kevin M. Gallagher (VSB No. 87548)
Steven G. Popps (VSB No. 80817)
Office of the Attorney General
202 North Ninth Street
Richmond, VA 23219
804-786-6731 – phone
804-371-0200 - facsimile
AFerguson@oag.state.va.us
KGallagher@oag.state.va.us
SPopps@oag.state.va.us

Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on June 16, 2022, the foregoing document was filed with the CM/ECF system and was e-mailed to the following *pro se* Plaintiffs, per the agreement on the record during the June 13, 2022 hearing:

Jeffrey Thomas, *pro se*
jeffburkethomas@gmail.com

Michelle Thomas, *pro se*
pastorthomas@gomtechnow.com

Phillip Thompson, *pro se*
philliptho@icloud.com

/s/ Steven G. Popp
Andrew N. Ferguson (VSB No. 86583)
Kevin M. Gallagher (VSB No. 87548)
Steven G. Popp (VSB No. 80817)
Office of the Attorney General
202 North Ninth Street
Richmond, VA 23219
804-786-6731 – phone
804-371-0200 - facsimile
AFerguson@oag.state.va.us
KGallagher@oag.state.va.us
SPopps@oag.state.va.us

Counsel for Defendants