

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



GOLDEN BETHUNE-HILL,  
et al.,

Plaintiffs,

v.

Civil Action No. 3:14cv852

VIRGINIA STATE BOARD  
OF ELECTIONS, et al.,

Defendants.

**INITIAL PRETRIAL, SCHEDULING  
AND DISCOVERY ORDER**

Finding it in the interest of justice and otherwise reasonably necessary for the orderly and efficient administration of justice, it is hereby ORDERED that the schedule and conditions set forth in Pretrial Schedule A (attached) shall govern the progress of this action, except to the extent superseded by the specific provisions of this Order.

**1. Nature of the Case**

Plaintiffs bring this action pursuant to 42 U.S.C. § 1983, alleging that Virginia's House of Delegates Districts 63, 69, 70, 71, 74, 75, 77, 80, 89, 90, 92, and 95 constitute racial gerrymanders, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Intervenor-Defendants deny Plaintiffs' allegations. Defendants

are scheduled to file their Answer on **February 18, 2015**. Dkt. No. 20.

**2. Results of Rule 26(f) Conference**

The Parties conducted a Rule 26(f) conference on February 6, 2015, and attended a conference call hearing with the Court on February 24, 2015, during which the following topics were discussed, certain conditions were stipulated by the Parties, and certain schedules were set:

**a. Related cases**

Plaintiffs believe that this case is related to Page v. Virginia State Board of Elections, No. 3:13-cv-678, and indicated as much on their Civil Cover Sheet, Dkt. No. 1-1; this case was subsequently assigned to the same District Court Judge who presided in Page. Defendants disagree that Page is a related case.

**b. Electronically Stored Information**

All relevant information which is available on electronic storage media is discoverable, whether readily readable ("active") or "deleted" but recoverable. In the event a Party believes that producing electronically stored information will be overly burdensome or otherwise prohibitive, the Parties shall confer and seek an appropriate resolution before bringing the issue to the Court, if necessary.

**c. Privilege Issues**

Intervenor-Defendants anticipate that, depending on the course of discovery, the issue of legislative privilege may arise. Any claims of privilege that arise will first be addressed by counsel. Any motions to compel arising out of a claim of privilege shall be filed no later than **March 23, 2015**; responses shall be filed by **March 31, 2015**; and replies shall be filed by **April 6, 2015**.

**3. Deadlines for Joining Additional Parties**

Additional parties shall be joined within ten (10) days of this Order.

**4. ADR Method**

The Parties believe that this case is not amenable to mediation.

**5. Discovery Plan**

**a. Rule 26(a)(1) Exchange**

The Parties shall disclose their Rule 26(a)(1) material no later than **February 20, 2015**.

**b. Expert Discovery**

Plaintiffs must serve expert report(s) no later than **March 11, 2015**, Defendants and Intervenor-Defendants must serve their expert report(s) no later than **April 10, 2015**, and Plaintiffs

may serve any expert reply report(s) no later than **April 24, 2015**.

**c. Written Discovery**

All written discovery shall be served no later than **March 5, 2015**. Objections shall be submitted no later than **March 16, 2015**, and responses shall be submitted no later than **March 20, 2015**. When necessary, the Parties will work in good faith to agree upon reasonable extensions of these deadlines, but all extensions must be approved in advance by the Court, which will consider such matters by telephone conference without prior briefing. If any objections remain unresolved by the Parties on **March 24, 2015**, the Parties shall immediately notify the Court and the Court shall hold a conference call at **10:00 a.m., March 25, 2015**. Privilege logs, if necessary, shall be submitted no later than **March 26, 2015**. The number of interrogatories and requests for production each Party may serve on any other Party shall be governed by the Federal Rules of Civil Procedure.

**d. Depositions**

The number and duration of depositions shall be governed by Federal Rule of Civil Procedure 30.

**6. Discovery Completion Date**

The discovery cutoff shall be **May 22, 2015**.

**7. Jury Trial or Not**

The Parties agree that this case will be heard by the Panel and is not amenable to a jury trial.

**8. Dispositive Motions**

Any dispositive motion (none of which are presently anticipated) shall be filed no later than **May 28, 2015**; responses shall be filed by **June 5, 2015**; and replies shall be filed by **June 12, 2015**.

**9. Motions in Limine**

All motions *in limine* shall be filed no later than **May 29, 2015**; responses shall be filed by **June 5, 2015**; and replies shall be filed by **June 12, 2015**. Such motions shall be heard no later than **June 26, 2015**.

**10. Written Stipulations**

Counsel for each Party shall meet and confer in a good faith effort to enter into written stipulations of uncontroverted facts no later than **June 12, 2015**. Written stipulations shall be signed by each counsel and filed with the Clerk no later than **June 26, 2015**.

**11. Discovery Designations and Summaries**

- a. No later than **June 16, 2015**, all Parties shall serve on all other counsel a list of all discovery materials, specifying the appropriate portions thereof, that the Party intends to offer at trial.
- b. No later than **June 23, 2015**, all Parties shall serve on all counsel a list of all "fairness" or rebuttal designations and amended summaries, as appropriate.
- c. No later than **June 26, 2015**, any objection to the introduction of any designation or parts thereof or any summary shall be filed by each of the Parties with the Clerk.
- d. No later than **June 29, 2015**, counsel shall confer to resolve objections to discovery designations. Any objections not resolved shall be determined at the Final Pretrial Conference.
- e. No later than **July 2, 2015**, the Party offering the designated discovery shall provide opposing counsel, the Clerk, and the Court with a conformed set of all designated discovery.
- f. By **July 3, 2015**, counsel shall submit for resolution any unresolved objections to depositions presented in the format as instructed in the telephone conference on February 24, 2015.

**12. Witness and Exhibit Lists**

- a. Plaintiff shall file a list of all witnesses intended to be called at trial, as well as a list of proposed exhibits, no later than **June 19, 2015**.
- b. Defendants and Intervenor-Defendants shall file a list of all witnesses intended to be called at trial, as well as a list of proposed exhibits, no later than **June 22, 2015**.
- c. Any objections to exhibits shall be filed with the Clerk no later than **June 25, 2015**.
- d. Each Party shall deliver to the Clerk four sets of pre-marked, indexed exhibits on **July 6, 2015**.

**13. Trial Briefs**

Each Party shall file a trial brief with the Clerk no later than **June 26, 2015**.

**14. Trial Date**

Trial is scheduled to commence on **July 7, 2015** at 10:00 a.m. at the Albert V. Bryan United States Courthouse located at 401 Courthouse Square, Alexandria, VA 22314.

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/s/ REP  
Robert E. Payne  
Senior United States District Judge

Richmond, Virginia  
Date: March 2, 2015