

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

Common Cause Florida, FairDistricts
Now, Florida State Conference of the
National Association for the
Advancement of Colored People
Branches, Dorothy Inman-Johnson,
Brenda Holt, Leo R. Stoney, Myrna
Young, and Nancy Ratzan,

Plaintiffs,

v.

Cord Byrd, in his official capacity as
Florida Secretary of State,

Defendant.

Case No.: 4:22-cv-109-AW-MAF

JOINT RULE 26(F) REPORT

1. Pursuant to Fed.R.Civ.P. 26(f) and the initial scheduling order issued by this Court on November 15, 2022 (Doc. 116), a meeting was held between the parties on December 6, 2022.

2. **Discovery Plan.** The parties propose to the Court the following discovery plan.

- a) **Discovery Subjects.** Discovery will be needed on the following subjects: (i) the allegations and prayer for relief in the Plaintiffs' Amended Complaint when filed, (ii) the defenses and allegations in the Defendant's Answer when filed. The Plaintiffs believe that

discovery into the 2022 elections is also relevant for the claims in the Plaintiffs' Amended Complaint, since the elections were held under the Congressional map that the Plaintiffs allege intentionally discriminates against Black Floridians. The Defendant contends that the Plaintiffs' causes of action only concern the bill—the enacted map—passed on April 22, 2022 and, as such, discovery of material concerning the 2022 elections does not shed light on whether the bill was passed with discriminatory intent.

b) **Deadlines**. The parties propose the following deadlines:

- The parties exchanged their Initial Disclosures under Rule 26(a)(1) on December 20, 2022.
- The parties will have until February 6, 2023 to amend their pleadings.
- The parties will have until February 6, 2023 to join additional parties.
- Expert disclosures and reports under Rule 26(a)(2) will be due on April 3, 2023, with any rebuttal disclosures and reports due on May 3, 2023.
- The last day for parties to file motions to compel will be May 3, 2023.

- The deadline to complete discovery will be June 2, 2023.
- Motions for Summary Judgment will be due on June 23, 2023.

Opposition briefs will be due on July 14, 2023. Reply briefs will be due on July 21, 2023.

- c) **Changes to the Rule 26(a) Disclosures**. The parties agree that no changes need to be made to the Rule 26(a)(1) initial disclosures and the Rule 26(a)(3) pretrial disclosures. As noted in the deadlines listed above, the parties agree that the expert disclosures under Rule 26(a)(2) will be due during the discovery period, with expert depositions completed before the close of discovery.
- d) **Rule 26(e)(1) Disclosures**. The parties agree that supplements and corrections to Rule 26(a) disclosures will be governed by Rule 26(e) or as otherwise ordered by the Court.
- e) **ESI Considerations**. The parties are exchanging ESI stipulations and believe that they will be able to reach an understanding on ESI issues.
- f) **Privilege Considerations**. The parties anticipate that there will be significant litigation surrounding legislative, executive, and attorney-client privilege issues.
- g) **Changes or Limitations to Discovery**. At this point the parties do not anticipate any changes to discovery, outside of the revisions to the

expert discovery deadlines described above. There will be no phases or limitations to discovery.

- h) **Orders Issued Under Rule 26(c) and Rule 16(b)-(c)**. The parties respectfully ask the Court to issue a scheduling order under Rule 16(b) that reflects the deadlines listed above.

3. **Projected Trial Date**. The parties anticipate a two-week trial, with a proposed start date of September 26, 2023, or as soon thereafter that the Court is available.

4. **Other Items**. At the Rule 26(f) conference, the parties also discussed the following topics:

- a) **Preservation of Discoverable Information**. Counsel for the Plaintiffs confirmed that all Plaintiffs are under litigation holds. Counsel for the Defendant confirmed that the Defendant as well as the Governor are under litigation holds and also preserving their documents pursuant to Florida public records laws.
- b) **Possibility of Early Resolution or Settlement**. At this point, the parties do not believe that the case is amenable to settlement or an early resolution.
- c) **Pre-Discovery Motion Conference**. The parties disagree as to

whether this Court should require a movant on a discovery order to request a conference with the Court. The Plaintiffs believe that such conferences would likely not be a productive use of the Court's time or that of the parties, given that the discovery disputes in this matter will likely center around complex issues of privilege that will require briefing. The Defendant simply believes that most discovery issues can be amiably reached between the parties after good-faith discussions; moreover, Defendant notes that Local Rule 7.1(B) requires attorney conferences before filing motions, including discovery motions.

Respectfully submitted this, 22nd day of December, 2022.

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