

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

Common Cause Florida, FairDistricts
Now, Dorothy Inman-Johnson, Brenda
Holt, Leo R. Stoney, Myrna Young, and
Nancy Ratzan,

Plaintiffs,

v.

Laurel M. Lee, in her official capacity as
Florida Secretary of State,

Defendant.

Case No.: 4:22-cv-109

JOINT REPORT

In accordance with the Court’s Order dated March 24, 2022 (ECF No. 43), Plaintiffs Common Cause Florida, FairDistricts Now, Dorothy Inman-Johnson, Brenda Holt, Leo R. Stoney, Myrna Young, and Nancy Ratzan (together, the “Plaintiffs”), Proposed Intervenors Michael Arteaga, Leni Fernandez, Andrea Hershoring, Jean Robert Louis, Melva Bentley Ross, Denny Troncoso, Brandon Nelson, Geraldine Ware, and Nina Wolfson (together, the “Proposed Intervenors”) and Defendant Laurel M. Lee¹ have conferred and provide the parties’ respective

¹ On March 30, 2022, Plaintiffs filed a notice of dismissal without prejudice against Wilton Simpson, in his official capacity as the President of the Florida State Senate; Chris Sprowls, in his official capacity as the Speaker of the Florida

positions on the following topics:

1. Whether there should be a preliminary injunction phase and, if so, what deadlines should be implemented for Plaintiffs' motion and Defendant's response.

The parties agree that there should not be a preliminary injunction phase.

The Secretary of State will not attempt to hold elections based on the existing congressional district map.

2. Deadlines and timeframes for an appropriate litigation schedule.

The parties agree that a new congressional map is necessary for Florida to conduct primary elections on August 23, 2022, and the general election on November 8, 2022. The parties disagree on the need for exigency. There are two upcoming dates relating to the August primary. Candidates who wish to petition to run for Congress must provide those petitions to the supervisors of election by May 16, 2022. *See* Section 99.095(3), Fla. Stat.; 2022 Candidate Petition Handbook at

House of Representatives; Ray Wesley Rodrigues, in his official capacity as the Chair of the Florida Senate Reapportionment Committee; Jennifer Bradley, in her official capacity as the Chair of the Florida Senate Select Subcommittee on Congressional Reapportionment; Thomas J. Leek, in his official capacity as the Chair of the Florida House of Representatives Redistricting Committee; and Tyler I. Sirois, in his capacity as the Chair of the Florida House of Representatives Congressional Redistricting Subcommittee (collectively, the "Florida Legislator Defendants"), ECF No. 57, and separately, a notice of dismissal without prejudice against Ron DeSantis, in his official capacity as Governor of Florida, ECF No. 58. On March 31, the Court affirmed these Defendants are dismissed from this matter. ECF No. 59.

8, <https://files.floridados.gov/media/704776/candidate-petition-handbook-2022-11-2-21.pdf>. All candidates, whether qualifying by petition or otherwise, must qualify to run by June 17, 2022. *See* Section 99.061(1) and (9), Fla. Stat.; 2022 Federal Election Qualifying Handbook at 12, <https://files.floridados.gov/media/705089/federal-qualifying-handbook-2022-final-11-16-21.pdf>.

The Plaintiffs and the Proposed Intervenors believe the legislative impasse, which commenced this action, remains the status quo. Based on the public statements of the Governor and the Legislature, there is no reason to think that the positions of the Legislature or the Governor have changed, nor to expect that the impasse will be resolved in the Special Session called for April 19-22, 2022. In the view of Plaintiffs and Proposed Intervenors, time is of the essence and the Court should be prepared to put a map in place as soon as possible following the close of the Special Session. The schedule below, proposed by Plaintiffs and Proposed Intervenors, will permit that.

Description	Deadline
Opening briefs on remedies, together with supporting affidavits	April 11, 2022
Responding briefs on remedies, together with supporting affidavits	April 18, 2022
Reply briefs on remedies, together with supporting affidavits	April 25, 2022

	After briefing is completed, a hearing as soon as the Court is available, with or without live testimony, as the Court directs.
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The Defendant submits that a map should be in place by June 13, 2022. The Defendant expects the upcoming Special Session of the Florida Legislature to result in a new congressional map on or before April 22, 2022, well before the deadline for close of candidate qualifying on June 17, 2022. In the unlikely event that Florida's political branches are at an impasse after April 22, 2022, the Defendant intends to propose the following schedule for the State Court in *Arteaga v. Lee*, Case No. 2022 CA 000398 (Fla. 2d Cir.), which the Defendant believes to be the more appropriate forum to adjudicate any impasse claim:

Description	Deadline
Opening briefs on remedies, together with supporting affidavits	April 29, 2022
Hearing with live testimony from experts	May 4-6, 2022
Post-hearing briefs	May 13, 2022

Plaintiffs and Proposed Intervenors will oppose a stay of this case in deference to the State Court action. The parties intend to brief these issues. *See* section 6 below. Assuming this Court issues a schedule and does not stay this case, whatever schedule the Court selects, the Plaintiffs and Proposed Intervenors

submit that their proposal of three briefs in advance of any hearing—rather than a single brief in advance of a hearing—will better permit all the issues to be raised and fully briefed before the parties orally present their positions to the Court and thereby maximize judicial efficiency.

3. Whether other parties should be—or must be—joined.

The parties agree that no other parties should be, or must be, joined.

4. The extent to which discovery is necessary.

The parties agree that some limited and expedited discovery may become necessary depending upon the schedule the Court adopts. The parties will continue to confer in good faith about the nature, scope and timing of such discovery, but are not in position to provide details at this time.

5. Appropriate timeframes for completing discovery.

See answer to 4 above.

6. Whether there are likely to be any threshold issues that will need immediate resolution.

These threshold issues are, or have been, before the Court:

The House and Senate defendants filed a motion to dismiss. In response, Plaintiffs have voluntarily dismissed those defendants. At the request of the Governor, Plaintiffs have also voluntarily dismissed the Governor. The remaining Defendant is the Secretary of State.

The Proposed Intervenors have moved to intervene. Plaintiffs consent to that motion and the Defendant takes no position.

Plaintiffs have moved that Judge Winsor recuse himself. The Proposed Intervenors support the motion. The Defendant opposes the motion and will file a response on Friday, April 1, 2022.

The Defendant submits this action should be stayed because of the state court action (described in 7 below) and the pending special legislative session called for April 19-22, 2022. The Plaintiffs and Proposed Intervenors oppose a stay. The Defendant requests briefing on her stay application. Defendant will file her opening brief by April 1, 2022, and Plaintiffs and Proposed Intervenors will respond by April 6, 2022.

7. The status of any other litigation involving these parties that seeks similar or related relief.

The parties identify the following litigation involving these parties that seeks similar or related relief:

Arteaga v. Lee, Case No. Case No. 2022 CA 000398 (Fla. 2d Cir.)

- Plaintiffs: Michael Arteaga, Leni Fernandez, Andrea Hershorin, Jean Robert Louis, Melva Bentley Ross, Denny Troncoso, Brandon Nelson, Geraldine Ware, and Nina Wolfson

- Defendants: Laurel M. Lee, in her official capacity as Florida Secretary of State, and Ashley Moody, in her official capacity as Florida Attorney General
- Relief Sought: Plaintiffs ask the court to declare Florida's current congressional districting plan unconstitutional; enjoin defendants from using the current congressional districting plan in any future elections; and implement a new congressional districting plan that adheres to the constitutional requirement of one person, one vote, should the Legislature and Governor fail to do so.
- Status: Complaint filed March 11, 2022. While Defendants' response is due on April 25, 2022, attorneys for Secretary Lee entered their appearance in the case on March 30, 2022, and have asked the State Court and Plaintiff's counsel for their availability to hold a case management conference.

8. Any other scheduling or case-management issues that the parties conclude should be addressed at the case-management conference.

The parties agree that there are no other scheduling or case-management issues that should be addressed at the case-management conference.

9. The parties must also confer regarding potential experts for appointment to assist the Court in preparing a map, if that becomes necessary. In their report, the parties must state whether they have agreed as to such individuals and, if not, each side may suggest one or

more potential experts. By providing names, the parties are not conceding that appointment of any expert is appropriate or that the Court will or should prepare a map.

At this time, the parties do not suggest that a court-appointed expert is needed to assist the Court in preparing and selecting a congressional map, but to the extent the Court thinks such an expert would be desirable, Plaintiffs and Proposed Intervenors suggest Nathaniel Persily, of Stanford Law School. The Defendant opposes the appointment of Professor Persily. The Defendant recommends Sean Trende. The Plaintiffs and Proposed Intervenors oppose the appointment of Mr. Trende.

Date: March 31, 2022

Respectfully submitted,

/s/ Mohammad O. Jazil

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Counsel for Proposed Intervenors

** pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on March 31, 2022, I electronically filed the foregoing with the Clerk of Court by using CM/ECF, which automatically serves all counsel of record for the parties who have appeared.

/s/ Gregory L. Diskant
Gregory L. Diskant