

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION**

RODNEY D. PIERCE and
MOSES MATTHEWS,

Plaintiffs,

v.

THE NORTH CAROLINA STATE BOARD
OF ELECTIONS, et al.,

Defendants.

Case No. 4:23-cv-193-D

**REPORT OF THE PARTIES' PLANNING MEETING
PURSUANT TO FED. R. CIV. P. 26(f)**

Plaintiffs, Legislative Defendants, and State Board Defendants respectfully submit this report of their meeting pursuant to Rule 26(f).

1. The following persons participated in a Rule 26(f) conference on April 18, 2024, by videoconference:

For Plaintiffs:

Elisabeth Theodore
Stanton Jones
Eddie Speas
Caroline Mackie

For Legislative Defendants:

Alyssa Riggins
Katherine McKnight
Erika Prouty

For State Board Defendants:

Terence Steed
Mary Carla Babb

The parties conferred again by email on July 3 and July 8, 2024.

2. Initial Disclosures. Pursuant to the Court's July 2, 2024 Order (D.E. 81), the parties

will serve initial disclosures required by Rule 26(a)(1) or notify the other parties that they have no amendments to the previously disclosed disclosures at this time by July 12, 2024.

3. Discovery Plan. The parties propose this discovery plan:
 - a. Discovery will be needed on these topics: The creation and performance of the state Senate map enacted October 25, 2023, specifically Districts 1 and 2 and their impact on the opportunity of Black voters in northeastern North Carolina's Black Belt counties to elect their candidates of choice; socioeconomic and political issues relating to the experiences of Black residents living in the Black Belt countries and Districts 1 and 2; this includes factual issues relating to the three *Gingles* preconditions and the totality of the circumstances for purposes of Section 2 of the Voting Rights Act, including but not limited to the success of Black candidates, the existence of racial appeals, the history of discrimination, and other totality-of-the-circumstance factors.
 - b. Discovery commenced on May 2, 2024. Per the Court's July 2, 2024 Order (D.E. 81), discovery shall be completed by October 4, 2024.
 - c. Interrogatories and responses thereto will be governed by Rule 33.
 - d. Requests for admission and responses thereto will be governed by Rule 36.
 - e. Depositions will be governed by Rule 30. In the event any party seeks to exceed the default limit of 10 depositions, the parties will confer in good faith and notify the Court if they are unable to reach a voluntary agreement. The parties acknowledge that a party may seek to re-open the deposition of an opposing expert for the limited purpose of questioning about any supplemental expert report by that expert following the November 2024 elections.

f. Pursuant to the Court's July 2, 2024 Order (D.E. 81), the following deadlines apply:

- i. Plaintiffs' expert disclosures and reports are due by July 16, 2024.
- ii. Defendants' expert disclosures and reports are due by August 16, 2024.
- iii. Plaintiffs' rebuttal expert reports are due by August 30, 2024.
- iv. Defendants' rebuttal reports for any new experts disclosed by Plaintiffs are due by September 13, 2024.
- v. The parties shall complete expert depositions by September 30, 2024.
- vi. The parties' RPV experts' supplemental reports with data from the November 2024 election are due by January 9, 2025.
- vii. Rebuttals to the parties' RPV experts' supplemental reports are due by January 16, 2025.
- viii. The parties shall complete supplemental depositions on the RPV experts' supplemental reports (limit to three hours) by January 24, 2025.

g. The parties will meet and confer regarding an agreed ESI protocol.

h. The parties will meet and confer regarding an agreed protocol for clawback and any other issues regarding attorney-client privileged or otherwise protected materials.

4. Other items:

a. Pursuant to the Court's July 2, 2024 Order (D.E. 81), the following pretrial

deadlines apply:

- i. All potentially dispositive motions and motions in limine, if any, shall be filed by October 18, 2024.
 - ii. The parties shall respond to dispositive motions and motions in limine, if any, by October 28, 2024.
 - iii. The parties shall reply to dispositive motions and motions in limine, if any, by November 4, 2024.
 - iv. The parties shall exchange pretrial disclosures required under the Federal Rule of Civil Procedure 26(a)(3) and the Local Rules, and deposition designations, if any by November 22, 2024.
 - v. The parties shall exchange any objections listed in Federal Rule of Civil Procedure 26(a)(3), and counter deposition designations, if any, by December 11, 2024.
 - vi. The final pretrial order shall be filed by December 20, 2024.
 - vii. The final pretrial conference shall be the week of January 27, 2025.
 - viii. Trial shall begin on February 3, 2025, to last no more than five days.
 - ix. The parties shall file proposed findings of fact and conclusions of law within three weeks after conclusion of trial.
- b. The parties do not believe that settlement is feasible at this stage.

Dated: July 8, 2024.

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By: /s/ Phillip J. Strach

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Respectfully submitted,

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* *Appeared via Special Notice*

Attorneys for Legislative Defendants

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel and parties registered in said system.

Dated: July 8, 2024.

/s/ Phillip J. Strach
Phillip J. Strach