

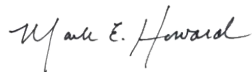
Clerk's Notice of Decision
Document Sent to Parties

on 10/18/2023

STATE OF NEW HAMPSHIRE
STRAFFORD COUNTY SUPERIOR COURT

Clerk to schedule a telephonic case
structuring conference with Judge Howard
before October 25, 2023. Judge Howard is
specially assigned to this case.

City of Dover et. al.
v.



Honorable Mark E. Howard
October 16, 2023

David Scanlan, Secretary of State for New Hampshire et. al.

Docket No. 219-2022-CV-00224

PLAINTIFFS' PROPOSED SUMMARY JUDGMENT BRIEFING SCHEDULE

NOW COME the plaintiffs, by and through their undersigned counsel, and submit this proposed summary judgment briefing schedule, stating as follows:

1. Plaintiffs have attempted to discuss structuring and related procedural issues with defense counsel, but to date those discussions have not resulted in a joint proposal.
2. Given that (1) this case is very time-sensitive, (2) there appear to be no material facts in dispute, and (3) the defendants have apparently not prioritized this case, plaintiffs hereby propose a summary judgment briefing schedule in lieu of a traditional structuring Order.
3. Public confidence in elections demands that disputes such as this be treated as priorities. Plaintiffs believe the current map under challenge is unconstitutional, yet the current map has already been used in the November 2022 election.¹ Hoping to avoid the same for the 2024 election, plaintiffs have sought to keep the case moving, but have not been met with the same perceived sense of urgency from the defendants.
4. The claims in this case are not the kind that can be decided on the merits just before the election. A series of events must precede the November 2024 election, such as

¹ This was not for lack of trying. In May 2022, plaintiff City of Dover petitioned the N.H. Supreme Court for original jurisdiction, which the current defendants opposed on various grounds, including proximity to the election, and which the Supreme Court ultimately denied to accept or hear (without prejudice to seeking relief in the Superior Court).

candidate filing periods, ballot creation, and absentee ballot applications and distribution (including overseas ballots, for example, for those deployed in the military). Before those events can take place, the candidates and voters must know the boundaries of the relevant districts.

5. There do not appear to be any material facts in dispute, at least based on discussions to date. The parties have been trading a draft stipulation of facts for several months seemingly reflective of agreement on the facts, all in an effort to help expedite this case and the Court's review of this case. However, due to recent remarks it is unclear now if newly assigned counsel for the defendants will in fact execute the stipulation (i.e., that other counsel have now worked months drafting). Whether or not the parties stipulate to facts, it is evident that the parties do not disagree about the core facts—the statute enacting the challenged plan, the legislative history of that statute, and the census data upon which redistricting occurred.

6. Respectfully, plaintiffs have lost confidence that the defendants in fact seek expeditious resolution of this case. Without belaboring the point, just this week defendants canceled a scheduled call between counsel for Tuesday September 19th meant for discussing this case. That is not the first-time plaintiffs' expectations have been set and then broken.

7. In light of the foregoing, plaintiffs hereby request that the Court approve the following proposed summary judgment briefing schedule in lieu of a traditional structuring Order:

- a. Plaintiffs' Motion for Summary Judgment due by October 23, 2023;
- b. Defendants' Objection and Cross-Motion for Summary Judgment due by November 22, 2023;
- c. Plaintiffs' Objection and Reply Memorandum due by December 4, 2023;
- d. Defendants' Reply/Surreply Memorandum due by December 18, 2023.

8. Plaintiffs further propose that, in the event the Court determines, after summary judgment briefing, that some or all claims or issues cannot be resolved via summary judgment, then the parties thereafter meet and confer to propose a process and schedule for the remainder of the case, which may include proposed discovery and trial scheduling. And, should the Court not approve this proposal or determine it needs other information, plaintiffs request that the Court schedule an expedited hearing or status conference.

WHEREFORE, the plaintiffs respectfully request that this Honorable Court:

- A. Approve and enter this proposed briefing schedule and other matters, as outlined in paragraphs 7 and 8 above;
- B. Schedule an expedited hearing or status conference if and to the extent indicated, as explained above; and
- C. Grant such other relief as the Court deems just, equitable, and proper.

Respectfully submitted,

THE CITY OF DOVER, NEW HAMPSHIRE

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