

IN THE TWENTY-NINTH JUDICIAL DISTRICT
WYANDOTTE COUNTY DISTRICT COURT
CIVIL DEPARTMENT

TOM ALONZO, SHARON AL-UQDAH,
AMY CARTER, CONNIE BROWN
COLLINS, SHEYVETTE DINKENS,
MELINDA LAVON, ANA MARCELA
MALDONADO MORALES, LIZ MEITL,
RICHARD NOBLES, ROSE SCHWAB, and
ANNA WHITE,

Plaintiffs,

v.

SCOTT SCHWAB, Kansas Secretary of State
and Kansas Chief Election Officer, in his
official capacity, and MICHAEL ABBOTT,
Wyandotte County Election Commissioner, in
his official capacity,

Defendants.

Case No. 2022-CV-000090

**PLAINTIFFS' MOTION TO EXPEDITE
PROCEEDINGS AND RESOLUTION OF THIS ACTION**

Plaintiffs, who are 11 individual Kansas voters, respectfully request that the Court expedite proceedings and resolution of this action, which presents a question of extraordinary public importance: Whether the congressional districting plan recently enacted by the Kansas Legislature, which intentionally and effectively dilutes the voting power of Kansas's Democratic voters and racial and ethnic minority voters, violates the Kansas Constitution. In light of the upcoming June 1, 2022 candidate filing deadline, swift resolution is essential so that, if the Enacted Plan is invalidated, a lawful new plan can be adopted in time to use in the August 2, 2022 primary elections. In support of their motion to expedite, Plaintiffs state as follows:

1. Plaintiffs filed the Petition in this action today, February 14, 2022, challenging the congressional redistricting plan enacted last week by the Kansas Legislature (the “Enacted Plan”) as an illegal partisan and racial gerrymander in violation of multiple provisions of the Kansas Constitution. Defendants are the Kansas Secretary of State, who is the State’s chief elections officer and responsible for administering the elections, and the Wyandotte County Election Commissioner, who is responsible for organizing and carrying out Wyandotte County elections. Plaintiffs are effectuating service of the Petition and this motion on Defendants immediately.

2. Plaintiffs seek a judgment from this Court (1) declaring the Enacted Plan unconstitutional and invalid solely under the Kansas Constitution; (2) enjoining use of the Enacted Plan in the the 2022 primary and general elections for Congress; and (3) establishing a remedial process to promptly adopt a new plan that complies with the Kansas Constitution, including a court-ordered remedial plan if the Legislature fails to timely enact a lawful new plan.

3. Plaintiffs and the public have a strong interest in resolving this action as expeditiously as possible to ensure that new, lawful districts can be established for the 2022 primary and general elections for Congress. Simply put, Kansans should not be forced to vote in unconstitutional districts that intentionally and effectively dilute the voting power of Democratic voters and maximize the likelihood of an exclusively Republican congressional delegation.

4. Time is of the essence. Under the current election schedule, the candidate filing deadline for the primary election is June 1, 2022, K.S.A. 25-205; the primary election is on August 2, 2022, *id.* 25-203(a); and the general election is on November 8, 2022, *id.* 25-101(a).

5. While this Court could push back interim election deadlines (including the June 1 candidate filing deadline) as necessary, the Court can avoid that step by proceeding

expeditiously. To promote a timely resolution and establish a remedial plan for use in the August 2022 primaries, Plaintiffs propose the following schedule:

- Opening expert reports and fact-witness affidavits due February 18
- Rebuttal expert reports due February 28
- Reply expert reports due March 4
- Expert depositions conducted March 7-11
- Fact discovery cutoff March 11
- Pretrial briefs, joint stipulation of facts, witness lists, and exhibit lists filed March 16
- Pre-marked exhibits submitted to the Court on March 18
- Trial the week of March 21-25
- Parties' proposed findings of fact and conclusions of law due March 28 at 9 a.m.

6. This proposed schedule would enable the Court to issue its decision on or around March 31, allowing adequate time for the establishment and implementation of a remedial plan for use in the 2022 elections under current deadlines.

7. To put this timing in perspective, the Legislature passed the Enacted Plan only eight days after its introduction in the House and Senate, and the changes necessary to remedy the unconstitutional gerrymandering are straightforward. Indeed, as described in the Petition, alternative plans have already been put forward that preserve the Kansas City Metro Area in a single congressional district, and that do not crack the city of Lawrence from Douglas County. If the Court holds that the Enacted Plan is unconstitutional, the Court can give the Legislature two weeks to enact a new plan that comports with the Kansas Constitution, promptly review the Legislature's remedial plan with the assistance of a court-appointed special master, and in all events approve a new plan roughly six weeks before the current June 1 candidate filing deadline. This will allow Defendants to implement the remedial plan for use in the August 2022 primaries.

8. On the merits, moreover, this is a straightforward case. Republicans pre-announced that they would intentionally gerrymander the congressional districts following the 2020 census to create four Republican seats and eliminate Democratic Congresswoman Sharice

Dauids’s district, and the Enacted Plan does so with surgical precision. This manipulation of the district boundaries for partisan gain, as well as the racially discriminatory cracking of racial and ethnic minority voters in Wyandotte County, violates voters’ fundamental rights under the Kansas Constitution.

9. While sufficient time remains to resolve this action and implement a remedial plan on the current election schedule, the schedule can be adjusted to provide effective relief. In particular, the Court could push back the June 1 candidate filing deadline, which is currently over two months before the August 2 primaries. Courts have often adjusted election schedules to allow additional time for resolving challenges to redistricting plans, including in this cycle. *See, e.g., Order, Harper v. Hall*, No. 413P21 (N.C. Dec. 8, 2021) (postponing 2022 primaries);¹ *Order, In the Matter of 2022 Legislative Districting of the State*, Misc. Nos. 21, 24, 25, 26, 27 (Md. Feb. 11, 2022) (postponing candidate filing and related deadlines for 2022 primaries).²

WHEREFORE, Plaintiffs request that the Court enter an order expediting proceedings and resolution of this action on the schedule set out above.

Respectfully submitted,

**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF KANSAS**

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¹ <https://tinyurl.com/ydf9pbaj>.

² <https://tinyurl.com/5erup7vs>.

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**Pro Hac Vice Motion forthcoming*

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2022, I electronically filed the foregoing with the Clerk of the District Court's electronic filing system which will serve all registered participants. A copy was also served by email to counsel for the Kansas Secretary of State, Clay Barker (clay.barker2@ks.gov).

/s/ Sharon Brett

Sharon Brett