

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP, and

TAIWAN SCOTT, on behalf of himself and
all other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official
capacity as President of the Senate; LUKE A.
RANKIN, in his official capacity as
Chairman of the Senate Judiciary Committee;
JAMES H. LUCAS, in his official capacity as
Speaker of the House of Representatives;
CHRIS MURPHY, in his official capacity as
Chairman of the House of Representatives
Judiciary Committee; WALLACE H.
JORDAN, in his official capacity as
Chairman of the House of Representatives
Elections Law Subcommittee; HOWARD
KNAPP, in his official capacity as interim
Executive Director of the South Carolina
State Election Commission; JOHN WELLS,
Chair, JOANNE DAY, CLIFFORD J.
EDLER, LINDA MCCALL, and SCOTT
MOSELEY, in their official capacities as
members of the South Carolina Election
Commission,

Defendants.

Case No. 3-21-cv-03302-MGL-TJH-RMG

**PLAINTIFFS' STATUS REPORT AND
REQUEST FOR GUIDANCE
REGARDING TRIAL LOGISTICS**

As Plaintiffs finalize their plans for trial, Plaintiffs respectfully submit this status report and a request for clarification on certain issues concerning the timing and logistics of trial. While Plaintiffs recognize there is a pretrial conference scheduled for September 30 at which some of these matters can be addressed, guidance on these questions are important for trial planning, as well as to be able to advise witnesses when to plan to appear.¹

BACKGROUND

1. Since the Parties submitted Rule 23(a)(3) disclosures on August 26, 2022 (ECF 327, 328, 329 & 331) and objections thereto on September 7 (ECF 363 & 365), Plaintiffs have been working to streamline their cases for presentation trial.

2. To that end, leading up to and at the Local Rule 26.07 meet and mark session (held on September 19), Plaintiffs have withdrawn several hundred proposed exhibits, and the Parties have resolved objections with regard to many others.

3. Plaintiffs are also working to winnow their witness lists. In addition to the will call list of seven witnesses (ECF 331 § A), Plaintiffs have reduced their may call list from 43 to 32 witnesses, of whom (i) sixteen are witnesses whom Plaintiffs have proposed testify solely by deposition designation,² and (ii) nine are additional non-party state legislators whom Plaintiffs are continuing to evaluate whether to call as live witnesses based on availability and to minimize redundant testimony. Plaintiffs are aiming to finalize their witness list this week, but at this juncture can report that depending on the length of trial days, the length of cross-examinations,

¹ Prior to this filing, Plaintiffs attempted to agree to a joint status report and request for clarification, but were unable to agree on whether requests 4-7 and 9 should be raised or the wording of requests 1 or 2.

² During the September 19 conference, Plaintiffs requested that six of these witnesses testify live at trial in Plaintiffs' case-in-chief. Defense counsel has advised that these witnesses will not voluntarily appear and requested that Plaintiffs consider proceeding in an alternative manner. Plaintiffs have made proposals for these witnesses to proceed by designation, which the Legislative Defendants are considering.

length of any renewed arguments on topics raised in pre-trial briefing, and additional logistical considerations (that are the subject of the request for clarification), Plaintiffs expect that their direct case should take no less than five to six trial days.

4. The Parties have agreed to provide lists of anticipated witnesses, exhibits, and any demonstratives to each other 48 hours in advance of the start of the relevant trial day, *i.e.*, Plaintiffs have committed to provide a list of the witnesses and exhibits it plans to introduce on Monday October 3 before 9:00 am on Saturday October 1, etc.

With this background, Plaintiffs request guidance on the following questions:

1. The April 5 and May 5, 2022 scheduling orders (ECF 210 & 261) provided the Court will not be in session on October 5, 2022 in recognition of the Yom Kippur religious holiday. The July 21 order (ECF 305) did not contain a similar provision, but did provide that “all other aspects of the previously entered Scheduling Orders shall be unchanged.” Plaintiffs would appreciate confirmation that Court will not be in session on October 5. In addition, Plaintiffs would like to know if the Court will be breaking early on October 4.

2. Plaintiffs would appreciate clarification whether Court will be in session on the October 10, 2022 federal holiday. Because this was not discussed in prior scheduling orders, Plaintiffs have been preparing to present testimony on this day, subject to the availability of the Court and court personnel.

3. To better schedule witnesses, Plaintiffs would appreciate guidance on the length of each trial day (*i.e.*, beginning and anticipated end of each day).

4. Plaintiffs would appreciate confirmation that witnesses whose testimony is being admitted by deposition designation can go in solely on paper records, and the Court does not want Counsel to read the relevant excerpts into the record, as would be done in a jury trial.

5. Plaintiffs would appreciate guidance on the best mechanism to submit exhibits as to which there is no objection, *i.e.*, posted on the docket at the start of trial, submitted in binders, etc.

6. Plaintiffs would appreciate guidance on the Court's preference as to whether exhibit binders for witness or the Court should be prepared, and, if so, how many copies and when they should be submitted.

7. Plaintiffs would appreciate guidance on whether there will be breakout/witness rooms available and whether there will be storage space for trial technicians and paralegals to store equipment or documents overnight.

8. Plaintiffs would appreciate guidance on whether the Court will entertain opening and/or closing remarks. In the event the Court permits such argument, Plaintiffs would ask that this be limited to no more than 30 minutes for each side for opening remarks.

9. Given the significant public interest in this matter, Plaintiffs would like guidance on how the trial will be made accessible and open to the public, including the capacity of the courtroom, and whether there will be a dial-in phone line where people can listen to the proceedings.

Dated: September 21, 2022

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** Motion for admission Pro Hac Vice
forthcoming
** Admitted Pro Hac Vice
*** Mailing address only (working remotely
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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on all counsel of record through the Court's CM/ECF system on the September 21, 2022

s/ Santino Coleman _____
Attorney for Plaintiff