

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

MISSISSIPPI STATE CONFERENCE OF THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE; DR. ANDREA WESLEY; DR. JOSEPH WESLEY; ROBERT EVANS; GARY FREDERICKS; PAMELA HAMNER; BARBARA FINN; OTHO BARNES; SHIRLINDA ROBERTSON; SANDRA SMITH; DEBORAH HULITT; RODESTA TUMBLIN; DR. KIA JONES; ANGELA GRAYSON; MARCELEAN ARRINGTON; VICTORIA ROBERTSON,

Plaintiffs,

vs.

STATE BOARD OF ELECTION COMMISSIONERS; TATE REEVES, *in his official capacity as Governor of Mississippi*; LYNN FITCH, *in her official capacity as Attorney General of Mississippi*; MICHAEL WATSON, *in his official capacity as Secretary of State of Mississippi*.

Defendants.

**CIVIL ACTION NO.
3:22-cv-734-DPJ-HSO-LHS**

PLAINTIFFS' MOTION FOR EXPEDITED TRIAL

Plaintiffs hereby move the Court for a scheduling order that provides for discovery and trial on an expedited basis, such that this Court can rule and provide in relief well before Mississippi's general election in November 2024. As grounds for this motion, Plaintiffs state as follows:

1. This case involves both statutory and constitutional claims against Mississippi's 2022 redistricting plans for the State House and State Senate. In their Complaint filed December

2022, Plaintiffs assert that the plans unlawfully dilute the voting strength of Black Mississippians in violation of Section 2 of the Voting Rights Act (“VRA”), 52 U.S.C. § 10301, and are racially gerrymandered in violation of the Fourteenth Amendment to the U.S. Constitution.

2. Plaintiffs seek to resolve this case in a manner such that, should they prevail at trial and obtain a judgment requiring the redrawing of certain legislative districts, relief may be imposed well in advance of the 2024 election.

3. Plaintiffs proposed a case management order (CMO) with an expedited schedule to allow for the case to proceed to trial by February 2024. Plaintiffs also intend to seek a remedial order that provides for special elections any districts that must be redrawn. Otherwise, the unlawful districts would persist until the 2027 statewide general election.

4. An expedited trial occurring by February 2024 would allow new maps to be drawn and enacted in time for special elections in those redrawn districts to occur in conjunction with the November 2024 general election.

5. After conferring with Defendants pursuant to Rule 26(f), the parties were unable to agree to an expedited schedule in accordance with Plaintiffs proposed case management order. Plaintiffs also oppose the schedule proposed by Defendants.

6. In the telephonic pre-trial conference pursuant to Rule 16(b), the Court ordered both parties to file motions on the propriety of their respective proposed schedules in this matter.

7. Plaintiffs assert that their proposed schedule is reasonable and achievable given the issues of this case and the limited scope of the discovery required. Further, a special election remedy is permissible under U.S. Supreme Court and Fifth Circuit precedent. Expediting the case such that a special election may be had in conjunction with the 2024 general election would prevent irreparable harm to Plaintiffs and similarly situated Mississippians.

The reasons for this motion for an expedited trial schedule are set forth in the accompanying memorandum and attached exhibit. Accordingly, Plaintiffs respectfully request that their motion for expedited treatment be granted.

DATED: May 26, 2023

Respectfully submitted,

/s/ Joshua Tom

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** *application for pro hac vice forthcoming*

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I, Joshua Tom, hereby certify that on May 26, 2023, I filed the forgoing Motion with the Clerk of the Court using the ECF system which sent notification of such filing to all parties on file with the Court.

/s/: Joshua Tom
Joshua Tom, MSB # 105392

Last Updated: Jan 2022

FORM 1 (ND/SD MISS. JAN 2022)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

MISSISSIPPI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE; DR.
ANDREA WESLEY; DR. JOSEPH WESLEY;
ROBERT EVANS; GARY FREDERICKS; et al

PLAINTIFFS

v.

CIVIL ACTION

No. 3:22-cv-734-DPJ-HSO-LHS

STATE BOARD OF ELECTION
COMMISSIONERS; TATE REEVES, in his official
capacity as Governor of Mississippi; LYNN FITCH, in
her official capacity as Attorney General of
Mississippi; MICHAEL WATSON, in his official
capacity as Secretary of State of Mississippi

DEFENDANTS

CASE MANAGEMENT ORDER

This Order, including all deadlines, has been established with the participation of all parties and can be modified only by order of the Court on a showing of good cause supported with affidavits, other evidentiary materials, or reference to portions of the record.

IT IS HEREBY ORDERED:

1. ESTIMATED DAYS OF TRIAL: 10

ESTIMATED TOTAL NUMBER OF WITNESSES: 30

EXPERT TESTIMONY EXPECTED: Yes

2. ALTERNATIVE DISPUTE RESOLUTION [ADR]. (Pick one)

At the time this Case Management Order is offered it does not appear that alternative dispute resolution techniques will be used in this civil action.

Additional Information:

3. CONSENT TO TRIAL BY UNITED STATES MAGISTRATE JUDGE. (Pick one)

The parties do not consent to trial by a United States Magistrate Judge.

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4. DISCLOSURE. (Pick one)

The following additional disclosure is needed and is hereby ordered:

The parties' FRCP 26(a)(1) initial disclosures shall be due on or before May 26, 2023.

5. MOTIONS; ISSUE BIFURCATION. (Pick one)

Staged resolution/bifurcation of the trial issues will not assist in the prompt resolution of this action.

Early filing of the following motion(s) might significantly affect the scope of discovery or otherwise expedite the resolution of this action:

6. DISCOVERY PROVISIONS AND LIMITATIONS.

- A. Interrogatories are limited to 30 succinct questions.
- B. Requests for Production are limited to 30 succinct questions.
- C. Requests for Admissions are limited to 30 succinct questions.
- D. Depositions are limited to the parties, experts, and no more than 13 fact witness depositions per party without additional approval of the Court.

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- E.** The parties have complied with the requirements of Local Rule 26(f)(2)(B) regarding discovery of electronically stored information and have concluded as follows:

The parties agree to address any issues pertaining to the production of ESI via a stipulated protocol.

- F.** The court imposes the following further discovery provisions or limitations:

1. The parties have agreed that defendant may obtain a Fed.R.Civ. P. 35 (L.U.Civ.R. 35) medical examination of the plaintiff (within subpoena range of the court) by a physician who has not examined the plaintiff, and that defendant may arrange the examination without further order of the court. The examination must be completed in time to comply with expert designation discovery deadlines.
2. Pursuant to FED.R.EVID. 502(d), the attorney-client privilege and the work-product protections are not waived by any disclosure connected within this litigation pending before this Court. Further, the disclosures are not waived in any other federal or state proceeding.
3. Plaintiff must execute an appropriate, HIPAA-compliant medical authorization.
4. The court desires to avoid the necessity of filing written discovery motions where court participation in an informal discussion of the issue might resolve it, even after the parties have been unsuccessful in a good faith attempt to do so. Consequently, before a party may serve any discovery motion, counsel must first confer in good faith as required by Fed. R. Civ. P. 37(a)(1). If the attorney conference does not resolve the dispute, counsel must contact the chambers of the magistrate judge to request a telephonic conference to discuss the issue as contemplated by Fed. R. Civ. P. 16(b)(3)(B)(v). Only if the telephonic conference with the judge is unsuccessful in resolving the issue may a party file a discovery motion.
5. Other:

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Additional information:

- 8/14/23 – Fact Discovery Deadline
- 8/28/23 – Plaintiff Expert Reports Due
- 10/16/23 – Defendant Expert Reports Due
- 11/6/23 – Plaintiff Rebuttal Expert Reports Due

7. SCHEDULING DEADLINES

A. Trial. This action is set for NON-JURY TRIAL statement not applicable beginning on: February 26, 2024, at 9:00, a.m., in Jackson, Mississippi, before United States District Judge Daniel P. Jordan III, et al.

THE ESTIMATED NUMBER OF DAYS FOR TRIAL IS 10. ANY CONFLICTS WITH THIS TRIAL DATE MUST BE SUBMITTED IN WRITING TO THE TRIAL JUDGE IMMEDIATELY UPON RECEIPT OF THIS CASE MANAGEMENT ORDER.

B. Pretrial. The pretrial conference is set on: January 25, 2024, at 9:00, a.m., in Jackson, Mississippi, before United States Magistrate Judge F. Keith Ball.

C. Discovery. All discovery must be completed by: December 11, 2023.

D. Amendments. Motions for joinder of parties or amendments to the pleadings must be filed by: May 26, 2023.

E. Experts. The parties' experts must be designated by the following dates:

1. Plaintiff(s): August 28, 2023.

2. Defendant(s): October 16, 2023.

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8. MOTIONS. All dispositive motions and *Daubert*-type motions challenging another party's expert

must be filed by: December 22, 2023 . The deadline for motions *in limine* is twenty-one (21) calendar days prior to the pretrial conference; the deadline for responses is fourteen (14) calendar days before the pretrial conference.

9. SETTLEMENT CONFERENCE.

If the parties desire judicial assistance to settle the case after initial discovery, they will contact the Court to request a date for a settlement conference when they have obtained the discovery necessary to make the conference effective.

10. REPORT REGARDING ADR. On or before (7 days before FPTC) January 18, 2024 , the parties

must report to the undersigned all ADR efforts they have undertaken to comply with the Local Rules or provide sufficient facts to support a finding of just cause for failure to comply. *See L.U.Civ.R.83.7(f)(3)*.

SO ORDERED:

DATE

UNITED STATES MAGISTRATE JUDGE