

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

DR. DOROTHY NAIRNE, JARRETT  
LOFTON, REV. CLEE EARNEST LOWE,  
DR. ALICE WASHINGTON, STEVEN  
HARRIS, ALEXIS CALHOUN, BLACK  
VOTERS MATTER CAPACITY BUILDING  
INSTITUTE, and THE LOUISIANA STATE  
CONFERENCE OF THE NAACP,

*Plaintiffs,*

v.

R. KYLE ARDOIN, in his official capacity as  
Secretary of State of Louisiana, *et al.*

*Defendants.*

Case No. 3:22-cv-00178-SDD-SDJ

Chief Judge Shelly D. Dick

Magistrate Judge Scott D. Johnson

**DEFENDANTS' JOINT SUPPLEMENTAL  
NOTICE OF PROPOSED PRE-TRIAL SCHEDULE**

Defendants jointly submit this supplemental notice regarding their position on the proposed pre-trial schedule following the June 29, 2023, telephone scheduling conference with the Court and in light of Plaintiffs' "Supplemental" Expert Reports served June 30, 2023.

On Friday night, June 30, 2023, Plaintiffs served new expert reports the scope of which far exceeds what Plaintiffs represented to this Court and to Defendants. These new reports are far more than "minor" "supplements" and merit providing Defendants with the full amount of time they proposed on June 29, 2023. Doc. 100-1 at 2. Plaintiffs had nearly an entire year to prepare these new reports—far from minor supplements—and now seek to jam Defendants by unnecessarily limiting Defendants' time to respond. For the reasons detailed herein, Defendants respectfully request that the Court enter Defendants' scheduling order proposed on June 29, 2023, at Doc. 100-1 at 2.

As discussed during the telephone scheduling conference, the parties agree on the majority of the pre-trial deadlines that should apply to this case. *See* Doc. 100-1 at 2. The parties, however, continue to disagree on several key deadlines pertaining to expert reports: 1) Defendants’ Expert Disclosures, 2) Defendants’ Expert Reports, 3) Plaintiffs’ Rebuttal Expert Disclosures, 4) Plaintiffs’ Rebuttal Expert Reports, 5) Defendants’ Sur-Rebuttal Expert Disclosures, and 6) Defendants’ Sur-Rebuttal Expert Reports. *See id.*

At the heart of this disagreement is the length of time between service of Plaintiffs’ “Supplemental” Expert Reports, served on June 30, 2023, and service of Defendants’ Expert Reports. Defendants’ proposed schedule sets an August 11, 2023, deadline for Defendants’ reports, six weeks after service of Plaintiffs’ June 30, 2023, reports, *see* Doc. 100-1 at 2, which is one week less than the seven weeks provided for in the parties’ original scheduling order. *See* Doc. 66. Plaintiffs opposed this deadline and the subsequent rebuttal and sur-rebuttal disclosure and report deadlines during the parties’ meet and confer efforts and during the June 29, 2023, scheduling conference, and seek instead to shorten this period to just three weeks.

In support of their position, Plaintiffs represented to Defendants and to the Court that their “supplemental” reports were “extremely similar” to the expert reports Plaintiffs previously served on July 22, 2022, and that the “supplemental” reports would simply be updating their expert reports with information related to the 2022 election and other “minor” changes.

Plaintiffs’ June 30, 2023, “Supplemental”<sup>1</sup> Expert Reports are not mere “supplemental” reports intended to account for new election data and other “minor” changes. Rather, they include substantial revisions and additions to their prior reports that are largely unrelated to the 2022

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<sup>1</sup> Four of Plaintiffs’ five expert reports are not even styled “supplemental” reports but are instead entirely amended and restated reports.

elections. For example, Plaintiffs’ new report from Mr. William Cooper develops new illustrative plans for both the House and Senate. These new plans:

1. *alter dozens of districts all over the State;*
2. reassign *thousands of Census blocks;*
3. reassign *over 35,000 people* from his original illustrative Senate plan; and,
4. reassign *over 83,000 people* from his original illustrative House plan.

To make matters worse, it appears that Mr. Cooper has not accurately reported the changes from his original illustrative plans to his new ones, requiring a detailed analysis to confirm the accuracy of all changes. Importantly, Mr. Cooper’s new report does not attribute the decision to submit new illustrative plans to 2022 election results, but rather to a claimed desire to better reflect communities of interest and to make other technical changes.

Plaintiffs’ new report from Dr. Lisa Handley goes far beyond adding the results of the 2022 U.S. Senate election to her prior report; she develops a new opinion analyzing Mr. Cooper’s new illustrative plans.

Finally, the one “supplemental” report that used that title—Dr. Craig Colten’s—was not in the nature of a true supplement, but instead contained an entirely new analysis of the 2022 enacted House and Senate plans and Mr. Cooper’s illustrative plans, even though Dr. Colten did not analyze these plans in his prior report. Notably, Dr. Colten does not include any 2022 election data in his “supplemental” report.

New illustrative plans with this amount of movement of population, and the corresponding new reports by Plaintiffs’ other experts, will require entirely new analyses and new reports by Defendants’ experts. This analysis cannot fairly be completed in the timeframe proposed by Plaintiffs. Plaintiffs had close to a year to prepare these new reports and now seek to limit

Defendants in their response. As Defendants explained during the June 29, 2023, scheduling conference, Defendants' proposed schedule allows sufficient time for Defendants' experts to thoroughly analyze Plaintiffs' new reports while also providing for enough time for rebuttal reports, sur-rebuttal reports, and additional time for expert depositions, let alone sufficient time for all other discovery and pre-trial deadlines.

In an effort to resolve this dispute without the Court's intervention, Defendants sought Plaintiffs' consent to join Defendants' proposed schedule. Plaintiffs declined.

For these reasons, and the reasons stated during the June 29, 2023, scheduling conference, Defendants' respectfully request that the Court enter the dates set forth in Defendants' Proposal. *See* Doc 100-1 at 2.

Respectfully submitted,

*/s/ Michael W. Mengis*

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**CERTIFICATE OF SERVICE**

I certify that on July 3, 2023, this document was filed electronically on the Court's electronic case filing system. Notice of the filing will be served on all counsel of record through the Court's system. Copies of the filing are available on the Court's system.

*/s/ Erika Dackin Prouty*

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