

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER et al.,
Plaintiffs,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, et al.,
Defendants,

and

JOSE TREVINO et al.,
Intervenor-Defendants.

Case No.: 3:22-cv-5035-RSL

INTERVENOR-DEFENDANTS’ MOTION
TO EXTEND TIME OF, AND ESTABLISH
PROCEDURES FOR, REMEDIAL
EVIDENTIARY HEARING

NOTE ON MOTION CALENDAR:
March 22, 2024

In an effort to ensure the upcoming remedial evidentiary hearing is both efficient and affords the Parties sufficient time to perform adequate expert witness examinations, Intervenor-Defendants file this Motion to Extend Time of, and Establish Procedure for, Remedial Evidentiary Hearing that is presently scheduled for March 8, 2024, beginning at 1:30 p.m. (*See* Dkt. # 266.) After conferring with counsel for the Parties, while agreeing on some matters, and disagreeing on others, Intervenor-Defendants respectfully request that the Court enter an order prior to the March 8, 2024, hearing regarding the matters discussed herein.

ARGUMENT

A. EXTENSION OF EVIDENTIARY HEARING TO FULL-DAY.

Plaintiffs intend to call two remedial experts (Dr. Collingwood and Dr. Oskooii) and Intervenor-Defendants intend to call one (Dr. Trende) at the evidentiary remedial hearing. Two of these experts—Dr. Trende and Dr. Oskooii—did not appear at the merits stage. Simply put, notwithstanding the expected inclusion of the expert reports as evidence, four hours is insufficient to allow for sufficient direct, cross, and re-direct examinations of the experts. Assuming an equal division between the experts, the current afternoon time allocation would allow for each expert to be on the stand for a total of 80 minutes. If the purpose of the upcoming hearing is indeed to gather facts to allow the Court to make important determinations—allowing each side (assuming only Plaintiffs and Intervenor-Defendants speak) 40 minutes with each expert is insufficient for these important purposes. Thus, in order to allow sufficient time for each party to present important facts, and question opposing experts regarding disputed facts, Intervenor-Defendants respectfully request that the Court extend the half-day hearing to a full-day hearing.

Positions of Other Parties:

Secretary Hobbs: Takes no position.

State of Washington: Takes no position.

Plaintiffs: Oppose.

B. ADMISSION OF REMEDIAL EXPERT REPORTS AS EVIDENCE AND PRE-QUALIFICATION OF REMEDIAL EXPERTS.

As was done at the merits stage, in order to allow for an efficient presentation of expert testimony within a short period of time, no party opposes admitting the remedial reports of Doctors Collingwood, Oskooii, and Trende as evidence in this matter and in stipulating to each experts' respective qualifications to provide the opinions in their reports.

Positions of Other Parties:

Secretary Hobbs: Takes no position.

1 State of Washington: Agrees to the admission of expert reports as evidence and
2 stipulates to the experts' qualifications.

3 Plaintiffs: Stipulate to the admissibility of the remedial expert reports exchanged
4 per the Court's order and the qualifications of the experts who authored them so
5 long as those experts take the stand at the hearing.

6 **C. ESTABLISH AN EQUAL CHESS-CLOCK WITH PLAINTIFFS, STATE, AND
7 SECRETARY ON ONE SIDE, WITH INTERVENOR-DEFENDANTS ON THE
8 OTHER.**

9 In order to allow for the fair and efficient examination of three expert witnesses within a
10 short period of time, Intervenor-Defendants request that the Court establish an equal "chess-style"
11 clock with Intervenor-Defendants on one side and all other parties on the other.¹ In the event the
12 Court grants the requested extension for a full-day hearing, Intervenor-Defendants suggest that
13 each side be given four (4) hours to divide however they choose. If the hearing stays at a half-day,
14 Intervenor-Defendants suggest that each side be given two (2) hours to divide however they
15 choose.

16 **Positions of Other Parties:**

17 Secretary Hobbs: Takes no position, but notes that do not intend to address Court
18 unless Court has questions.

19 State of Washington: Takes no position.

20 Plaintiffs: Agree to the establishment of an evenly split chess-clock between
21 Plaintiffs and Intervenor-Defendants with time taken by the State to be subtracted from
22 Plaintiffs' time, but notes disagreement with the stance that the State's interests are
23 fully aligned with those of Plaintiffs. Does not agree that any time taken by
24 Secretary Hobbs ought to be subtracted from Plaintiffs' time.

25 **CONCLUSION**

26 Providing additional time and establishing clear procedures for the upcoming evidentiary
27 hearing on remedial options will allow the Court, as well as each party, to maximize this
opportunity to hear from respected experts who disagree on what is necessary, or even possible, to
effectuate a remedy map in this matter.

¹ Intervenor-Defendants note that this issue was discussed with the Court on the record at the recent oral argument. When presented with this request, the Court stated, "That's fine." (*See* Hr'g Tr., 32:9-15, Feb. 9, 2024.)

1 DATED this 3rd day of March, 2024.

2 Respectfully submitted,

3 s/ Andrew R. Stokesbary

4 Andrew R. Stokesbary, WSBA No. 46097
5 CHALMERS, ADAMS, BACKER & KAUFMAN, LLC
6 701 Fifth Avenue, Suite 4200
7 Seattle, WA 98104
8 T: (206) 813-9322
9 dstokesbary@chalmersadams.com

10 Jason B. Torchinsky (admitted pro hac vice)
11 Phillip M. Gordon (admitted pro hac vice)
12 Andrew B. Pardue (admitted pro hac vice)
13 Caleb Acker (admitted pro hac vice)
14 HOLTZMAN VOGEL BARAN
15 TORCHINSKY & JOSEFIK PLLC
16 15405 John Marshall Hwy
17 Haymarket, VA 20169
18 T: (540) 341-8808
19 jtorchinsky@holtzmanvogel.com
20 pgordon@holtzmanvogel.com
21 apardue@holtzmanvogel.com
22 cacker@holtzmanvogel.com

23 Dallin B. Holt (admitted pro hac vice)
24 Brennan A.R. Bowen (admitted pro hac vice)
25 HOLTZMAN VOGEL BARAN
26 TORCHINSKY & JOSEFIK PLLC
27 Esplanade Tower IV
2575 East Camelback Rd
Suite 860
Phoenix, AZ 85016
T: (540) 341-8808
dholt@holtzmanvogel.com
bbowen@holtzmanvogel.com

Counsel for Intervenor-Defendants

I certify that this memorandum contains 706 words, in compliance with the Local Civil Rules.

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of the Court of the United States District Court for the Western District of Washington through the Court’s CM/ECF System, which will serve a copy of this document upon all counsel of record.

DATED this 3rd day of March, 2024.

Respectfully submitted,

s/ Andrew R. Stokesbary _____
Andrew R. Stokesbary, WSBA No. 46097

Counsel for Intervenor-Defendants

The Honorable Robert S. Lasnik

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JOSE TREVINO et al.,
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Case No.: 3:22-cv-5035-RSL

**[PROPOSED] ORDER GRANTING
INTERVENOR-DEFENDANTS’ MOTION
TO EXTEND TIME OF, AND ESTABLISH
PROCEDURES FOR, REMEDIAL
EVIDENTIARY HEARING**

THIS MATTER, having come before the Court upon Intervenor-Defendants’ Motion to Extend Time of, and Establish Procedures for, Remedial Evidentiary Hearing (*see* Dkt. # 279), having read and considered all briefs and other matters presented to the Court, and upon any hearing in this matter, IT IS HEREBY ORDERED that:

Intervenor-Defendants’ Motion to Extend Time of, and Establish Procedures for, Remedial Evidentiary Hearing (*see* Dkt. # 279) is GRANTED.

The evidentiary hearing regarding remedial proposals scheduled for March 8, 2024, shall begin at 8:00 AM.

The expert reports of Drs. Collingwood, Oskooii and Trende shall be admitted, and the Court finds each such expert qualified to provide the opinions contained in their reports.

1 At the March 8, 2024 evidentiary hearing regarding remedial proposals, Intervenor-
2 Defendants and Plaintiffs shall each be given four (4) hours to examine the expert witnesses as
3 they choose. Any time used by the Defendants State of Washington or Secretary of State shall be
4 subtracted from Plaintiffs' time.

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6 IT IS SO ORDERED.
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1 DATED this _____ day of _____, 2024.

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3
4 The Honorable Robert S. Lasnik
United States District Judge

5
6 Presented by:

7 s/ Andrew R. Stokesbary

8 Andrew R. Stokesbary, WSBA No. 46097
9 CHALMERS, ADAMS, BACKER & KAUFMAN, LLC
701 Fifth Avenue, Suite 4200
Seattle, WA 98104
10 T: (206) 813-9322
dstokesbary@chalmersadams.com

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14 HOLTZMAN VOGEL BARAN

TORCHINSKY & JOSEFIK PLLC

15 15405 John Marshall Hwy

Haymarket, VA 20169

16 T: (540) 341-8808

jtorchinsky@holtzmanvogel.com

17 pgordon@holtzmanvogel.com

18 apardue@holtzmanvogel.com

cacker@holtzmanvogel.com

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HOLTZMAN VOGEL BARAN

21 TORCHINSKY & JOSEFIK PLLC

Esplanade Tower IV

22 2575 East Camelback Rd

Suite 860

Phoenix, AZ 85016

24 T: (540) 341-8808

25 dholt@holtzmanvogel.com

bbowen@holtzmanvogel.com

26 *Counsel for Intervenor-Defendants*

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of the Court of the United States District Court for the Western District of Washington through the Court's CM/ECF System, which will serve a copy of this document upon all counsel of record.

DATED this 3rd day of March, 2024.

Respectfully submitted,

s/ Andrew R. Stokesbary
Andrew R. Stokesbary, WSBA No. 46097

Counsel for Intervenor-Defendants

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