

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ALBANY DIVISION

\_\_\_\_\_

MATHIS KEARSE WRIGHT, JR., : Case No. 1:14-CV-42-WLS  
: :  
PLAINTIFF :  
vs. : November 15, 2017  
: Albany, Georgia  
Sumter County Board of :  
Elections and Registration, :  
:  
DEFENDANT. :

\_\_\_\_\_

PRETRIAL HEARING  
BEFORE THE HONORABLE W. LOUIS SANDS  
UNITED STATES DISTRICT JUDGE, PRESIDING

APPEARANCES:

FOR THE PLAINTIFF:

BRYAN L. SELLS  
P.O. BOX 5493  
ATLANTA, GA 31107

LAUGHLIN MCDONALD  
2700 INTERNATIONAL TOWER  
229 PEACHTREE ST NE  
ATLANTA, GA 30303

AKLIMA KHONDOKER  
P.O. BOX 77208  
ATLANTA, GA 30309

FOR THE DEFENDANT:

KATHERINE L. MCKNIGHT  
E. MARK BRADEN  
1050 CONNECTICUT AVE NW  
STE 1100  
WASHINGTON, DC 20036-5403

KIMBERLY A. REID  
P.O. BOX 5005  
CORDELE, GA 31010

\_\_\_\_\_  
SALLY L. GRAY, USCR  
201 W. BROAD ST, SECOND FLOOR  
ALBANY, GA 31701

(229) 431-2515

**P R O C E E D I N G S**

**November 15, 2017**

**THE COURT:** All right. Good afternoon.

**COUNSEL:** Good afternoon.

**THE COURT:** All right. We are here in case number 1:14-CV-42-WLS. Mathis Kearse Wright, Junior as plaintiff versus Sumter County Board of Elections and Registration, defendants. And this is our pretrial conference that the Court earlier set by order. I believe there has been a change of counsel in the case. There were lawyers who were previously -- who are still listed as counsel for the defendant who have not been allowed off the case, though they have moved to withdraw, and I expect to enter an order. But it was made known that they are not released until the Court considers and issues that order, but did allow them to not be here today, so they would not have to bear an unnecessary expense in that it appears that there is counsel in place to move forward with the trial of the case.

Just for the record, if I could hear from who -- counsel for the plaintiff, who will be representing the plaintiff, and --

**MR. SELLS:** Your Honor, Bryan Sells for Plaintiff Mathis Kearse Wright, Jr., and would you like

1 me to introduce my co-counsel?

2 **THE COURT:** Yes, if you would.

3 **MR. SELLS:** To my left is Laughlin McDonald  
4 of the ACLU'S voting rights project.

5 **THE COURT:** Mr. McDonald, I think we've had  
6 the pleasure of being in court before.

7 **MR. MCDONALD:** We've met before, Your Honor,  
8 yes.

9 **THE COURT:** How are you doing.

10 **MR. SELLS:** And the newest member of our  
11 team, all the way on the left, is Aklima Khondoker.

12 **THE COURT:** All right.

13 **MR. SELLS:** And she is an attorney with the  
14 ACLU of Georgia.

15 **THE COURT:** All right. Thank you very much.  
16 Nice to see all of you. And if we can have identified,  
17 now, attorneys for the defendant.

18 **MS. MCKNIGHT:** Yes. Good afternoon, Your  
19 Honor.

20 **THE COURT:** Good afternoon.

21 **MS. MCKNIGHT:** I am Kate McKnight with Baker  
22 Hostetler. We represent defendant. Appearances pro  
23 hoc viche were permitted or allowed yesterday or the  
24 day before.

25 **THE COURT:** Yeah, I know that's in process,

1 yes.

2 **MS. MCKNIGHT:** Okay. Thank you, Your Honor.

3 **THE COURT:** Thank you.

4 **MS. MCKNIGHT:** And with me is my colleague  
5 Mark Braden, also from Baker Hostetler.

6 **THE COURT:** All right. Mr. Braden.

7 **MS. MCKNIGHT:** And then also here with us  
8 today is Kimberly Reid, and she is already counsel of  
9 record on this case for defendant.

10 **THE COURT:** All right, Ms. Reid. All right.  
11 Good to see you. Of course, the Court has endeavored  
12 to try to keep the case on track so that we could not  
13 have a situation where the ultimate election of  
14 officials to the board would not be unduly delayed. I  
15 know that's not entirely at all of our control, but to  
16 the extent that we can do so, I would like to do so.  
17 That's why the Court set the case for trial in  
18 December, and, ultimately, as I have stated in the  
19 previous order, the Court maintains that as the trial  
20 date.

21 In noticing -- in reviewing your submissions, I  
22 think you all have a disagreement about how long the  
23 case will take, and we'll discuss that in a moment.

24 One thing I do want to clarify for the record, and  
25 that was the -- due to the subsequent filing of the

1 defendant's portion of the pretrial -- proposed  
2 pretrial order, there was a reference to an ex parte  
3 communication to the Court by the plaintiffs,  
4 indicating that there had not been cooperation by the  
5 defendants in preparing the proposed pretrial order and  
6 that that was implicitly the basis for the Court's  
7 denial of the continuance.

8 I want to make sure and make clear that that is  
9 not accurate. First of all, the ex parte communication  
10 that was referred to -- I think it was an email that  
11 was submitted to the Court at the time the plaintiffs  
12 provided their portion of the proposed pretrial order,  
13 and that's what the reference was to, as I understand  
14 it.

15 **MS. MCKNIGHT:** That's correct, Your Honor.

16 **THE COURT:** All right. Okay. And so,  
17 technically, that's ex parte, but it's not a -- it's  
18 not a one-to-one exchange with the Court outside of the  
19 presence of other counsel. The Court notes, though,  
20 that, as it said previously in its order, that it was  
21 unable to reschedule the pretrial conference due to  
22 staff unavailability related to the holidays and the  
23 previously scheduled matters.

24 The Court in its order was merely noting Plaintiff  
25 Wright's assertion in its representation to the Court

1 in showing that Sumter County had not yet submitted a  
2 proposed pretrial order.

3 Now, what the Court wants to make clear is  
4 regardless of whether any attempt was made to confer or  
5 not, Sumter County had not -- well, Sumter County was  
6 required, rather, to submit a proposed pretrial order  
7 by Wednesday, November the 8th, 2017, and it failed to  
8 do so.

9 Now, because the Court could not accommodate the  
10 parties' request to reschedule the pretrial conference  
11 and because the deadline for a proposed pretrial order  
12 had expired without any material being submitted by  
13 Sumter County, the Court was forced to set a new  
14 deadline for a proposed pretrial order.

15 Now, the same would have been done, regardless of  
16 the representation made by Wright. So the Court is not  
17 -- it was not because -- it wasn't relying on the  
18 representation of the plaintiff in making its decision;  
19 it was because of the standing schedule, which had not  
20 been complied with, and the Court then acted out of  
21 responsibility to address that matter. I want it to be  
22 clear about that for the record.

23 Now, I do want to say that, after we conclude  
24 today, I would want you all to get back together and to  
25 combine the proposed order into a single document as

1 ideally was supposed to be done, but the Court  
2 appreciates that now both parties have provided their  
3 portions singly to the Court.

4 I believe all prior motions pending have been  
5 addressed. The Court has issued its order on the  
6 pending --

7 **MR. SELLS:** Your Honor, if I may.

8 **THE COURT:** Yes.

9 **MR. SELLS:** Just for the Court's information,  
10 we did confer yesterday.

11 **THE COURT:** Good, I hope you did. I had Ms.  
12 King to let you all know, indeed, I did expect you to  
13 the degree you could to get together.

14 **MR. SELLS:** And to the extent that it  
15 facilitates our discussions today --

16 **THE COURT:** Yeah.

17 **MR. SELLS:** -- I think we have a proposed  
18 pretrial order that is combined.

19 **THE COURT:** Okay.

20 **MR. SELLS:** We were driving, and so I had to  
21 look at it on my phone, but I think --

22 **THE COURT:** The modern marvels of technology.

23 **MR. SELLS:** It's amazing what you can do at  
24 70 miles an hour. But to the extent it facilitates our  
25 conversation here today, we can email that to the

1 Court.

2 **THE COURT:** That would be fine. So what  
3 we'll do then is, is let me do it this way. I think  
4 that we can start this way, first, for plaintiff to  
5 state any differences or concerns it has from its  
6 perspective, and then I'll likewise hear from the  
7 defendant.

8 All right. Mr. Sells?

9 **MR. SELLS:** With regard to the pretrial  
10 order, Your Honor?

11 **THE COURT:** Uh-huh.

12 **MR. SELLS:** Okay. I think we have hammered  
13 out agreement where agreement is possible and where  
14 agreement is not possible, we have separately indicated  
15 in this combined order where we disagree. For example,  
16 we still disagree on the length of time the trial will  
17 take.

18 **THE COURT:** Okay.

19 **MR. SELLS:** It's not a large disagreement.  
20 We still think it'll be about five days, maybe four and  
21 a half. And I believe the defendant is still two to  
22 three days.

23 **THE COURT:** Well, let me just say this. The  
24 Court is going to set aside five days with the hopes  
25 that we'll take less.

1           **MR. SELLS:** Well, we imagined we would get  
2 direction from you as to how many hours per day we  
3 would go.

4           **THE COURT:** Yeah, yeah. What we are going to  
5 do -- Madam Clerk, I don't believe any other matters  
6 are scheduled during that time period; is that right?  
7 (Aside). I think the only thing there is a possibility  
8 there may be a little adjustment on Friday if we go  
9 through the 15th, and there's a matter that's scheduled  
10 on the afternoon of the 14th which the Court can  
11 reschedule.

12           So basically the Court has set aside that time  
13 period, the week, for you all, and what we would expect  
14 to do, where, normally with a jury, particularly, do a  
15 compressed trial day of 8 to 2, we are going to do 9 to  
16 5 with a traditional lunch break.

17           So, and I think that'll allow us, since it's just  
18 counsel and the Court, we can move efficiently and do  
19 what I guess we call a traditional day. All right.

20           **MR. SELLS:** Okay. In that case I would  
21 probably say four and a half to five.

22           **THE COURT:** Yeah. Okay, then. That's what  
23 we'll do. Okay. We have the week set aside.

24           **MR. SELLS:** There was a minor difference in  
25 our paragraph three regarding the Court's jurisdiction,

1 but we agreed to simply combine those. There's no  
2 dispute over jurisdiction.

3 **THE COURT:** All right.

4 **MR. SELLS:** We had different entries with  
5 respect to proposed deadlines for posttrial proposed  
6 findings of fact and conclusions of law, and I think we  
7 need the Court's guidance on that.

8 As you know, the plaintiff is interested in having  
9 this matter resolved in time for a remedy to be in  
10 place, should the Court order one, for the next  
11 election. I don't know how much time you have mentally  
12 reserved to do that and what sort of briefing schedule  
13 you have.

14 **THE COURT:** Well, probably not enough. Madam  
15 Clerk, let me see your calendar again. There's one  
16 thing that the Court has traditionally considered.  
17 There are a lot of holidays in December and January,  
18 and we are getting a little bit ahead because that's  
19 why the Court chose to the week of the 11th. That was  
20 one I thought was amply ahead of the holiday,  
21 essentially.

22 **MR. SELLS:** Yes.

23 **THE COURT:** And while I think the Court, in  
24 its practice and experience, and counsel, in their  
25 practices and experience, know about working through

1 holidays and things of that matter, I don't know that  
2 it's fair to the staffs and to the families that we do  
3 such a thing. So out of deference to them, I think the  
4 defendant's suggestion -- I think the suggestion of the  
5 12th?

6 **MR. SELLS:** The 12th, Your Honor, yes.

7 **MS. MCKNIGHT:** That's correct, Your Honor.

8 **THE COURT:** I think in reality and  
9 practicality, that's probably the better deadline. So,  
10 in light of the Court's comments, I think the 12th  
11 would be a good deadline for the parties to submit  
12 their proposed findings of fact and conclusions of law,  
13 and the Court will be able to hopefully jump on those  
14 pretty quickly.

15 I will have a trial term ongoing at that time, but  
16 I don't know how much will be left, but it's the  
17 Court's intention is to try to get to a resolution as  
18 soon as possible. But I think a realistic briefing  
19 time, in view of the holidays and related matters, that  
20 the 12th will be a probably fair --

21 **MR. SELLS:** Right. We don't have any  
22 objection to that.

23 **THE COURT:** Okay.

24 **MR. SELLS:** We know the Court is well aware  
25 of when the next election is.

1           **THE COURT:** Yeah, yeah, yeah. We're keeping  
2 that in mind, and I think we can still try to maintain  
3 a schedule there. And the Court always understands  
4 ultimately, though, if that's impossible to do, then  
5 the Court will just have to address that then, but the  
6 Court is going do all it can to get a resolution.

7           Now, one thing I did notice that the defendants in  
8 their proposal suggest that if the Court did find in  
9 favor of the plaintiff, that the first opportunity to  
10 address a solution would be required to be presented to  
11 the General Assembly for the State of Georgia. What's  
12 the plaintiff's position on that?

13           **MR. SELLS:** Well, our position is a little  
14 bit different, Your Honor, and it comes down to timing,  
15 we think. If there is time for the Georgia General  
16 Assembly to act, then it would be appropriate for the  
17 Court to give them time to act. I'm guessing that  
18 there won't be very much time, if any at all, for the  
19 Georgia General Assembly to act to get a new plan in  
20 place in time for qualifying the first week of March.  
21 If that --

22           **THE COURT:** Well, my question about that,  
23 though, I think, isn't the legislature actually in  
24 session?

25           **MR. SELLS:** It may be.

1           **THE COURT:** I think it goes in session,  
2 maybe, I think they start meeting maybe with committees  
3 and things in January and go officially into session  
4 sometime in January or February at the latest. I've  
5 forgotten. I don't keep up with it as much as I used  
6 to, but I know during the winter into early spring they  
7 are in session, I think, until about April.

8           **MR. SELLS:** Well, certainly, but that doesn't  
9 mean that this Court can or should give them until  
10 April to come up with a solution if the election was in  
11 March, unless the Court decides to delay the election  
12 until after the session is over. That would be a  
13 possible remedy as well, but not one we would favor.

14           **THE COURT:** I would like for each of you to  
15 submit to the Court your brief at the beginning of  
16 trial as to what that requirement is and what  
17 flexibility or discretion the Court might have in  
18 regard to presenting the matter to the legislation if  
19 the Court found in favor of the plaintiffs.

20           I think if each side thinks that out very  
21 carefully and looks at the law, that you all could be  
22 helpful to the Court in deciding what its choices are,  
23 if that's the case.

24           **MR. SELLS:** Certainly, Your Honor, we can do  
25 that. Thank you. And I believe in our proposed order,

1 as it stands, we have the January 12th date. So that's  
2 part of it is go to go.

3 **THE COURT:** Right, that's resolved.

4 **MR. SELLS:** Let's see. There's no  
5 disagreement about paragraph five with regard to  
6 discovery. We have inserted our brief and succinct  
7 outline of the case, which is substantially briefer  
8 than the defendants, but --

9 **THE COURT:** Well, I noticed I had a little  
10 bit of a feeling with a closing argument when I read  
11 the defendant's statement of the case.

12 **MR. SELLS:** -- different visions of  
13 succinct, that's --

14 **THE COURT:** I would be probably be concerned  
15 about those matters if this was being submitted to a  
16 jury, but since it's coming to the Court, the Court can  
17 obviously distill what the positions are.

18 **MR. SELLS:** We left ours as it is, and we  
19 left theirs as it is.

20 **THE COURT:** That's fine.

21 **MR. SELLS:** And you'll see both of those.

22 **THE COURT:** So, without objection, then, the  
23 Court won't require any further revision unless the  
24 plaintiff -- defendants, rather, had wanted to.

25 **MR. SELLS:** No, we're fine to stand as we

1 are.

2 **THE COURT:** That's fine.

3 **MR. SELLS:** With regard to paragraph eight,  
4 the issues for determination by the Court, we separated  
5 those out in our proposed pretrial order so that  
6 there's a plaintiff's version and a defendant's  
7 version, rather -- there's, I think, admittedly some  
8 overlap between our -- the issues that we think are  
9 before the Court and the issues that the defendant  
10 thinks are before the Court, but we phrased them  
11 differently, and we didn't think it was particularly  
12 useful to try to come up with one unified set, unless  
13 you tell us otherwise. The proposed pretrial that  
14 we'll submit has the plaintiff's contention of what the  
15 issues are before the Court, and it'll have separately  
16 the defendant's as --

17 **THE COURT:** That's fine. I'll look at both  
18 of them. That's fine.

19 **MR. SELLS:** There was no difference of  
20 opinion with regard to 9 and 10. This is not a tort  
21 action, not a contract action. The defendant's  
22 pretrial -- proposed pretrial order notes that there's  
23 a claim for attorney's fees, and we lumped that in the  
24 combined version, which, of course, there is. There's  
25 paragraph 12, the statement of material undisputed

1 facts, and there remains, I think, substantial  
2 disagreement on that, although we have identified the  
3 small number of facts about which we do agree. That  
4 may be something the Court wishes to address.

5 **THE COURT:** Yeah, I would think that I would  
6 want to know what it is that you all agree are disputed  
7 facts. Anything else I think would have to necessarily  
8 be considered a dispute even though they may be minor  
9 in nature. But the Court would expect for you all to  
10 tell the Court what things -- what facts you all agree  
11 are established.

12 **MR. SELLS:** Well, Your Honor, I want to raise  
13 it for your attention that we think that there was a  
14 lot more that is undisputed than defendants new counsel  
15 believes is undisputed, including items that you  
16 indicated were undisputed in earlier motions -- rulings  
17 on motions for summary judgment with regard  
18 specifically to elections, and we are concerned that  
19 with the change in late counsel, the defendant is  
20 seeking an opportunity to dispute at the last minute  
21 facts that have been undisputed for 2 years, 2 and a  
22 half years. And we don't mind retrying those, but I  
23 wanted to flag that for your attention.

24 **THE COURT:** But have -- were there any  
25 agreements -- I mean, we can say there's some --

1 implicitly there were some things that maybe were not  
2 disputed, but were there any things that were  
3 affirmatively stated by agreement between the parties  
4 that were undisputed previously to the Court's --

5 **MR. SELLS:** No. I'm going, Your Honor, by  
6 your ruling in 2014 on the motion for summary judgment  
7 where you noted that our expert had analyzed 13  
8 elections, the defendants didn't dispute nine, and so  
9 you focused on the four about which there was a  
10 dispute. Well, now there's is a dispute about all 13,  
11 and that dispute came up this week. Until -- until the  
12 new counsel, we had no indication that they intended to  
13 dispute these elections that were previously  
14 undisputed. And, like I said, I can try that issue,  
15 but it may seem like a little bit of *déjà vu* for the  
16 Court which has already considered these issues.

17 **THE COURT:** Have there been any changes in  
18 the record since the time that -- of the record that  
19 was before the Court and the Court made its findings  
20 for summary judgment purposes?

21 **MR. SELLS:** Well, I think that's a fair  
22 question, Your Honor, and there's the issue of the 2016  
23 elections, which were not before the Court in 2014.  
24 That's one election. And we have -- our expert has  
25 reanalyzed all of the elections using better data, as

1 we say in our expert's report, and we intend to enter  
2 those in. But I don't think that's the basis of the  
3 objection, and I still don't think there's any dispute  
4 about whether there was cohesion in most of those nine  
5 races, whether there was a minority preferred candidate  
6 and who that candidate was in those nine races and  
7 whether that candidate won or lost in those nine races.

8 **THE COURT:** Well, the Court notes for the  
9 *Gingles* factors, the Court did make a finding that  
10 *Gingles'* factor one was established.

11 **MR. SELLS:** Yes.

12 **THE COURT:** And I think that would be on the  
13 record. That's why I asked, is something different in  
14 the record that would be presented to the Court at  
15 trial that will put that at issue for trial purposes?

16 **MR. SELLS:** Not with respect to the first  
17 *Gingles* factor, Your Honor. It's more the second and  
18 the third.

19 **THE COURT:** Now, the Court recalls that its  
20 findings were, first, that Sumter County uses a  
21 majority vote requirement; and, secondly, the Court  
22 found that no African American had been elected to an  
23 at large seat on the school board under the challenged  
24 plan; and, thirdly, that no African Americans have been  
25 elected in school board districts except where African

1 Americans constitute a majority of the voting age  
2 population. Those were the findings the Court thought  
3 were substantial to its prior order.

4 **MR. SELLS:** Right. The order that I have in  
5 my mind, Your Honor, is your order on summary judgment  
6 the first time around where you write: McBride  
7 compiled the following statistics which Sumter County  
8 does not dispute except to the extent that the  
9 statistical calculations are clearly erroneous, i.e.,  
10 totalling greater than 100 percent. And then on page  
11 nine you write again: Sumter County does not dispute  
12 that African American voters were politically cohesive  
13 in 8 out of 12 elections, therefore the Court will  
14 consider each of the four elections analyses contested  
15 by Sumter County.

16 **THE COURT:** Yeah, I recall -- and I don't  
17 want to rely on my memory, but that the Court made a  
18 clear distinction in its ultimate address of the recent  
19 motion -- partial motion for summary judgment in that  
20 it was looking at the case from a different  
21 circumstance for the recent purposes as compared to  
22 what it was looking at with the previous order that  
23 ultimately was vacated in effect by the reversal and  
24 remand from the circuit court.

25 **MR. SELLS:** Yeah, I understand that, Your

1 Honor, but I don't think the burden of proof changes  
2 whether or not Sumter County disputed something or not.  
3 They have not disputed those elections until now. You  
4 know, we're going to put that information in the  
5 record, but, frankly, we're going to be going over a  
6 lot of stuff that was undisputed three weeks ago.

7 **THE COURT:** Well, of course, I think it  
8 behooves all of us to be efficient in terms of the  
9 presentation of the evidence, but I think the better  
10 determination for the Court is that I would want you  
11 all to tell me what you presently agree is undisputed,  
12 and then we'll take just up those other matters,  
13 whether you think they are truly disputed or not, I'll  
14 let you all address those matters when they come up in  
15 the trial. But I would like to know affirmatively from  
16 you what you agree now to be undisputed, and I  
17 understand what your point is now.

18 **MR. SELLS:** Yeah, we will certainly get you  
19 that list, and come December, I'll just ask -- I may  
20 need to ask the Court's indulgence if we have to go  
21 over stuff the Court have heard already.

22 **THE COURT:** All right, yeah. I don't know  
23 that I can save any more time by, in effect, going back  
24 and deciding what, in addition that you now agree to is  
25 disputed, is also undisputed in my view based on what I

1 ruled in the prior order that came before a reversal  
2 and we started again. So that's -- I just don't think  
3 that's practical.

4 **MR. SELLS:** Okay.

5 **THE COURT:** And I understand that it may mean  
6 that we may spend a little more time than we might  
7 otherwise spend.

8 **MR. SELLS:** We will, Your Honor.

9 **THE COURT:** All right.

10 **MR. SELLS:** So, as I was driving down here,  
11 Ms. McKnight sent me a compiled version of the facts  
12 that she thinks that we agree to, and I just did not  
13 have time to review that before our conference.

14 **THE COURT:** Yeah. Yeah, I'll give you time  
15 to do that. That's -- you all can just amend -- even  
16 before you submit to me, you know, the order y'all have  
17 now got together, you can go ahead and consider that  
18 and make that further adjustment to it before  
19 submitting it.

20 **MR. SELLS:** I'm happy to do that, Your Honor,  
21 and we'll get that in. It's -- you know, it will move  
22 us along somewhat.

23 **THE COURT:** Yeah, yeah. Okay.

24 **MR. SELLS:** The next paragraph is the list of  
25 exhibits, and we discussed the list of exhibits. The

1 defendant's list is a little bit briefer than ours is,  
2 and we noted to them yesterday on the phone that we  
3 don't have any likely objections with regard to the  
4 exhibits four through ten. We have not yet seen 1, 2,  
5 and 3, but don't anticipate objections to those if they  
6 will provide them to us.

7 **THE COURT:** All right.

8 **MR. SELLS:** And Ms. McKnight might have some  
9 other thoughts about ours.

10 **THE COURT:** All right. Thank you. Ms.  
11 McKnight, is there anything you want to add in light of  
12 what we've -- I think I've addressed some of the  
13 differences as Mr. Sells made his presentation.

14 **MS. MCKNIGHT:** Yes, Your Honor. Thank you.  
15 I may start first with the exhibits, only because we  
16 were just talking about those. We were -- we discussed  
17 yesterday and were able to come to an agreement that  
18 the parties will exchange exhibits on December 4th,  
19 that is one week prior to trial. It seems to make  
20 sense to us to give us time to review them and prepare,  
21 you know, for any possible objections. One question I  
22 had for Your Honor on that point is if Your Honor would  
23 entertain any motions in limine at this point related  
24 to proposed exhibits, and if so, when the Court would  
25 like to see those.

1           **THE COURT:** Well, I thought the time -- the  
2           deadline for that would have passed.

3           **MS. MCKNIGHT:** Okay.

4           **THE COURT:** For motions in limine.

5           **MS. MCKNIGHT:** Okay.

6           **THE COURT:** And I don't know that they are  
7           that critical in view of their ability to object since  
8           it's a court sitting as opposed to a jury, so I don't  
9           think that materially deprives either party of the  
10          ability to object to matters that they think are not  
11          proper.

12          **MS. MCKNIGHT:** Okay. I understand. Thank  
13          you. Now, on that point, I think we are able to in  
14          these -- in this kind of case we've got some data, a  
15          lot of data that -- and the same data set that  
16          plaintiffs and defendants will be relying on, so we'll  
17          just work with that. And I'm speaking specifically of  
18          DX-1, which is the Secretary of State's election  
19          database. We will work with plaintiffs to exchange  
20          exhibits on the 4th and work through what we can as far  
21          as any admissibility issues on that data. We want to  
22          make it as easy as possible for the Court to deal with  
23          that type of information, and so we'll just continue to  
24          work with plaintiffs on that.

25          **THE COURT:** That would be very helpful unless

1 -- does the plaintiff have any objection to that  
2 December 4th date being the date that you all would try  
3 to have collaborated on that?

4 **MR. SELLS:** No, Your Honor. If that works  
5 for the Court, that works for us.

6 **THE COURT:** Then we'll set that, then, as the  
7 date that you all will get together, not later than  
8 that date, to review your exhibits for objection  
9 purposes.

10 **MR. SELLS:** Okay.

11 **THE COURT:** All right. You may continue, Ms.  
12 McKnight.

13 **MS. MCKNIGHT:** Pardon me, Your Honor, I just  
14 want to make sure I address with you the right -- all  
15 the issues we need to.

16 **THE COURT:** All right.

17 **MS. MCKNIGHT:** Plaintiff is correct that we  
18 have a disagreement on paragraph eight, that is, issues  
19 for consideration. He's also correct that there's a  
20 fair amount of overlap, so we will just move forward  
21 with including plaintiff's version and defendant's  
22 version, and if there is any -- you know, I think we  
23 will -- as parties we will have an opportunity, both at  
24 trial and in our proposed findings of fact and  
25 conclusions of law, to deal with differences about the

1 issues where --

2 **THE COURT:** Yeah, I agree with that. I think  
3 that's sufficient. That way I can decipher what your  
4 respective positions are, and at some point the Court  
5 will determine what they are, and you all will have the  
6 opportunity to persuade the Court or not as to whether  
7 your version more accurately states what the issues  
8 are.

9 **MS. MCKNIGHT:** Now, going to the paragraph  
10 regarding time estimate. I'll pull that up for you,  
11 Your Honor.

12 **THE COURT:** I've set aside five days with the  
13 hopes that we'll do better.

14 **MS. MCKNIGHT:** Yes. And part of me -- I  
15 don't mean to belabor this point, but we were thinking,  
16 discussing yesterday with plaintiff's counsel it may be  
17 useful for the Court to see some estimate, granted it  
18 is an estimate, about how many hours we think our case  
19 in chief will take. Now that we have a sense of the  
20 trial days being from nine to five, that helps us  
21 better estimate the number of days. So I suppose what  
22 we'll -- we can edit that paragraph accordingly.

23 **THE COURT:** Yeah, that will be fine.

24 **MS. MCKNIGHT:** Okay. Now, when we submit the  
25 updated proposed pretrial order tomorrow, one edit that

1 I'd like to alert the Court to, on Exhibit C, which is  
2 defendants's exhibit list, is that defendant will  
3 delete one of the exhibits from their list, so we don't  
4 think that this is prejudicial to plaintiffs, a  
5 deletion, not an addition. We would delete item number  
6 DX-10. That is the supplemental report, parens,  
7 corrected, end parens, of Frederick McBride, March 3rd  
8 2017. Frankly, we do not think this will be admissible  
9 at trial. We will, you know, flag that issue for the  
10 plaintiffs and the Court, but we will be removing that  
11 from our list, and we'll be prepared to deal with that  
12 at trial as an objection to that exhibit.

13 **THE COURT:** All right. Well, then the  
14 plaintiff is on notice that that's not being submitted,  
15 so if that affects the plaintiff's case, then the  
16 plaintiffs can address it. Do you have a different  
17 understanding, Mr. Sells?

18 **MR. SELLS:** Well, no, Your Honor, that's the  
19 first time I've heard of the objection to that, and if  
20 I need to have experts to come in and vouch for the  
21 validity of what is in my expert's report, I need to  
22 know that today in order to get them here for trial.

23 **THE COURT:** Yeah, but I don't know what the  
24 effect, if any there is, but they've stated that they  
25 are withdrawing that exhibit. So, if that does or not

1 affect your case, you would know that that's not being  
2 submitted by them, so that allows you to address it, if  
3 you need to, any submission you need to in terms of  
4 supporting your case.

5 **MR. SELLS:** Okay.

6 **THE COURT:** In other words, you are not  
7 relying on their exhibit as being a part of --  
8 available for your case independent, is what --

9 **MR. SELLS:** Yeah. Right, perhaps this  
10 discussion is better saved when we talk about  
11 witnesses.

12 **THE COURT:** All right. That's noted for the  
13 record, that that will be a withdrawal.

14 **MS. MCKNIGHT:** Okay. Thank you, Your Honor.  
15 And then the last question for you would be just to  
16 confirm that the Court would prefer to receive exhibits  
17 in electronic form and not paper form. We've looked at  
18 the local rule 79.2 and saw an indication of  
19 electronic, but wanted to make sure Your Honor didn't  
20 also want to have a paper --

21 **THE COURT:** I think that's the -- for  
22 purposes the submitting the record to the clerk who has  
23 to maintain them, it has to be in electronic format,  
24 but this Court has been around a long time, and it  
25 appreciates --

1           **MS. MCKNIGHT:** -- a paper --

2           **THE COURT:** -- paper.

3           **MS. MCKNIGHT:** I completely understand.

4           **THE COURT:** -- that it has available to it  
5 when its looking so I don't have to go search, you  
6 know.

7           **MS. MCKNIGHT:** OKAY.

8           **THE COURT:** So for the record, you need to  
9 submit to conform with the rule, but I would appreciate  
10 the parties maybe putting a notebook together for me  
11 with your paper copies properly identified so that I  
12 could look at those --

13           **MS. MCKNIGHT:** Okay.

14           **THE COURT:** -- in the old fashion way.

15           **MS. MCKNIGHT:** That's wonderful, and we'll  
16 make an additional one for your clerk as well, Your  
17 Honor.

18           **THE COURT:** All right.

19           **MS. MCKNIGHT:** So those are the issues I  
20 wanted to address, and what Mr. Sells already  
21 discussed, I believe he may want to discuss witnesses  
22 next, so we're prepared to discuss that in course.

23           **THE COURT:** Yes. All right, Mr. Sells?

24           **MR. SELLS:** Well, before we move on from  
25 exhibits, Your Honor, I did want to raise the issue of

1           how the Court would like to handle what we call our  
2           historical exhibits. You may have noticed that --

3                   **THE COURT:** Yeah, I did.

4                   **MR. SELLS:** -- most of them -- most of the  
5           exhibits on our list are part of the historical record  
6           that you asked for in your recent summary judgment  
7           order, and different courts have different preferences  
8           for how to get those in the record. We have in the  
9           past done judicial notice requests, but however the  
10          Court would like them, we want those in the record so  
11          that we can rely on them in our posttrial findings. So  
12          we would ask for the Court's guidance on that.

13                   **THE COURT:** Okay. I think to the degree that  
14          there are exhibits -- I'm just thinking off the top of  
15          my head right now -- that the same requirement would be  
16          necessary, to submit those in electronic form. I guess  
17          you could retrieve those and submit them that way --

18                   **MR. SELLS:** Right --

19                   **THE COURT:** -- although for record purposes,  
20          we know that they are historical documents that could  
21          be addressed otherwise, but I think if they are in the  
22          record in some form --

23                   **MR. SELLS:** Right. These are all historical  
24          documents. They should be self authenticating, and my  
25          practice has always been to move them in in bulk either

1 on the first day of trial or the last day of trial or  
2 during a break at trial, something along those lines,  
3 and --

4 **THE COURT:** That's something that I think  
5 that when you all go over your exhibit lists by the  
6 4th, that that should be those identified, and I think  
7 unless there is an objection, I would see no reason  
8 they could not be submitted in bulk, you know, as  
9 properly identified at trial.

10 **MR. SELLS:** Okay.

11 **THE COURT:** That's one of those things that I  
12 think, you know, we can all save a lot of time with it.  
13 It's just a matter of the opposing counsel having the  
14 opportunity to say yay or nay if they think there's a  
15 reason to differ about it.

16 **MR. SELLS:** Okay. That's how we'll plan to  
17 proceed then.

18 **THE COURT:** All right. That's fine.

19 **MR. SELLS:** Unless you want to address that,  
20 I will move on --

21 **MS. MCKNIGHT:** No, that's fine. As I  
22 understand, Your Honor, what we'll do is, that when we  
23 exchange exhibits -- and to be -- we had a discussion  
24 about these exhibits yesterday, specifically the  
25 exhibits such as Georgia laws, code, and case law where

1 we didn't think it was necessary to submit those as  
2 exhibits, that they -- as authorities they could be  
3 cited. If they were unreported cases, they could be  
4 attached to a pleading, you know.

5 **THE COURT:** Yeah. Okay. I think what we can  
6 do then is just, as stated, that those, as identified  
7 on the record and as agreed to by the party, that's  
8 sufficient to identify them and either party and the  
9 Court can therefore include those or reference those as  
10 it needs to do so.

11 **MS. MCKNIGHT:** Okay.

12 **THE COURT:** Okay. And that may save a little  
13 space that way. In other words, they are made a part  
14 of the record by reference and agreement, as opposed to  
15 having to separately input an item into the record  
16 electronically.

17 **MS. MCKNIGHT:** Now -- pardon me, one  
18 additional issue, Your Honor, is that there may be  
19 exhibits that were provided by plaintiffs on December  
20 4th, you know, based on their descriptions in this  
21 exhibit list, we can't know precisely what they mean by  
22 the exhibit today, but we'll know on December 4th, when  
23 we look at those exhibits, we may see exhibits that --  
24 documents that should have been produced in discovery,  
25 but were not, and we would have an objection. And

1 then, of course, plaintiffs would need an opportunity  
2 to say either they were produced or they weren't  
3 responsive. How would you like to handle those types  
4 of objections? We're happy to handle them at trial,  
5 but if there's an easier way to deal with that, we'd be  
6 happy to do that as well.

7 **THE COURT:** Madam Clerk, would you hand me  
8 the calendar. Mr. Sells?

9 **MR. SELLS:** Well, I would just say, Your  
10 Honor, it may be a moot point because the defendants  
11 did not propound any document requests, so --

12 **MS. MCKNIGHT:** We -- I was just reviewing  
13 them on the way down today so we can discuss these  
14 afterwards.

15 **MR. SELLS:** Okay.

16 **THE COURT:** So the 4th is on a Monday.

17 **MS. MCKNIGHT:** Yes.

18 **THE COURT:** And I would think you all should  
19 file your objections, if there are any, with the Court  
20 by the 6th.

21 **MS. MCKNIGHT:** Okay.

22 **THE COURT:** And that will allow the Court to  
23 have an idea of whether there are and to what -- and  
24 what there are, if there are objections. I'd also like  
25 to do this. I'd like to set aside, say, 2 o'clock on

1 Friday the 8th as a potential date if we need to get  
2 together to clarify any objections or matters pending  
3 prior to trial starting on the 11th. And what we'll  
4 do, we'll just pencil that in, and if it turns out that  
5 we don't need it or it's something very minor that we  
6 can do by phone, we'll do it that way, but if it's  
7 something substantial and extended, then we'll set  
8 aside 2 o'clock on December the 8th to address those  
9 matters.

10 I would like to get as much out of the way as far  
11 as disputes before trial so that we could move smoothly  
12 through the extensive record that's got to be provided  
13 by each of you during the trial itself. So we'll do it  
14 that way. So the 4th, you meet to review and file any  
15 objections by the 6th, and if we need to have a hearing  
16 in person, we'll do that on the 8th at 2:00, the Court  
17 would notice it, otherwise we'll confirm it, or we  
18 might, if it's feasible, have a phone conference at  
19 that same time.

20 **MS. MCKNIGHT:** Thank you, Your Honor.

21 **MR. SELLS:** Okay.

22 **MS. MCKNIGHT:** We have some points to discuss  
23 on witnesses, but I'll allow plaintiff, because that's  
24 the course we're going to go first.

25 **THE COURT:** All right. Mr. Sells?

1           **MR. SELLS:** I think the only issue with  
2 witnesses from the plaintiff's perspective is that  
3 there is a witness that we don't know who he is and has  
4 never been disclosed to us. We should have talked  
5 about it last night when we conferred, but it slipped  
6 my mind. So that --

7           **THE COURT:** Do you all need to talk about it  
8 further first, if it's a --

9           **MR. SELLS:** Well, I think we should have an  
10 opportunity to talk about it. It just occurred to me  
11 late last night that -- well, I mean, it had occurred  
12 to me before, but then during our conferences, we  
13 didn't get to that issue. So I think we should have an  
14 opportunity to talk.

15           **THE COURT:** Yeah, I'll let you all talk about  
16 it first because it may become a nonissue, and if it  
17 remains an issue, then you can raise it with me.

18           **MR. SELLS:** Right. And -- well, I guess that  
19 completes the pretrial order from plaintiff's  
20 perspective.

21           **THE COURT:** All right. Ms. McKnight?

22           **MR. SELLS:** Oh, I'm sorry, there is -- there  
23 was the issue of expert witnesses, Your Honor, that we  
24 should address.

25           **THE COURT:** Okay.

1           **MR. SELLS:** You know, we filed a Daubert  
2 motion with respect to the defendant's expert, and we  
3 would want to carry that Daubert motion forward to  
4 trial. I'm not sure that it's an efficient use of time  
5 to do that live. We would be happy, if it suits the  
6 Court, simply to incorporate our Daubert motion brief  
7 into the trial record. But, however you want to do it  
8 is fine with us. And, if the defendant intends to  
9 raise a Daubert motion, we need to know that soon,  
10 particularly if we need to get an expert to vouch for  
11 our expert.

12           **THE COURT:** All right. Ms. McKnight?

13           **MS. MCKNIGHT:** Well, I believe we have a  
14 similar issue as plaintiffs in that we have noted that  
15 at least portions, if not all, of Dr. McBride's  
16 opinions should be excluded. That was -- you ruled on  
17 that in your motion for summary judgment, so we're  
18 happy to deal with it however the Court would like,  
19 meaning there have already been pleadings in this  
20 matter related to this topic, but, frankly, it may make  
21 sense to have the experts here for the judge to see  
22 them and for us to be able to perform some sort of voir  
23 dire on them. But, again, we're happy to go with what  
24 the Court would prefer.

25           **THE COURT:** Okay. Is there an additional

1 witness expert on either side that's not already been  
2 identified? Because we've partially dealt with those  
3 before, so -- okay. All right. I think there are one  
4 of two ways we could do this. If the objections based  
5 on Daubert are the same for trial purposes as they were  
6 at the summary judgment stage when each party filed  
7 their respective motion, I think if you all are  
8 satisfied with it, we can maintain that as the record,  
9 you know, as a part of the Court's record for trial  
10 purposes.

11 If there are other matters, in addition, then the  
12 Court would think that it would preferable to have the  
13 witnesses available for a full review for the Court to  
14 hear and see. I don't think we need to re-decide  
15 things that have already decided on the record that was  
16 complete for the time that the Court reviewed it. And  
17 that's, again, a question you all can answer much  
18 better than I can. In other words, I'm willing to  
19 stand on what we've done before if that remains the  
20 situation.

21 **MR. SELLS:** For the plaintiffs, yes --

22 **THE COURT:** But if it changes --

23 **MR. SELLS:** -- same situation, we're willing  
24 to stand --

25 **THE COURT:** If it changes, or there's some

1 other purpose, then I think that's, in effect, a  
2 different motion.

3 **MR. SELLS:** Right.

4 **MS. MCKNIGHT:** And so, if there is any  
5 change, I believe we -- it should be on the same bases.  
6 But, Your Honor, if there is any change, as long as we  
7 have Dr. McBride available for questioning, he is  
8 listed as a will-call witness on plaintiff's proposed  
9 pretrial order, so we trust that he will be here, and  
10 we can ask him those questions when he's here.

11 **THE COURT:** Okay. Plaintiff, is Mr. McBride  
12 going to be here, or does he have to be subpoenaed?

13 **MR. SELLS:** No. Dr. McBride is going to be  
14 here, but if they're going to be coming up with new  
15 bases for challenging Dr. McBride that require some  
16 external validation, some vouching -- for example, if  
17 they take issue with his methodology, I will have  
18 another expert here who will say, as an independent  
19 expert, I've reviewed what Dr. McBride did and what Dr.  
20 McBride did is fine. And we need notice in order to be  
21 able to have that.

22 **THE COURT:** I think I've got the solution, I  
23 think I just thought -- okay. By December 4th, each  
24 party should supplement and update its position as to  
25 its use of experts and what that expert is expected to

1       assert and the basis for it. And so that's a notice.  
2       So then, that will be for each side to know then  
3       whether that's a difference and whether that requires  
4       some further steps on the other party's part.

5               So in addition to your exhibit review on the 4th,  
6       any supplemental notice with regard to the testimony or  
7       opinions of experts should be updated by that date  
8       also.

9               **MR. SELLS:** That doesn't give us much time to  
10       prepare a Daubert motion, if they assert grounds that  
11       they have never asserted before.

12              **THE COURT:** Well, we are at that tight spot.  
13       We are --

14              **MR. SELLS:** Well, we're in a tight spot  
15       because they have new attorneys, Your Honor, that  
16       may -- may want to assert new stuff.

17              **THE COURT:** Well, let's see. I picked the  
18       4th since you all were already getting together on the  
19       exhibits.

20              **MS. MCKNIGHT:** And, Your Honor, to be fair,  
21       plaintiffs have been on notice since possibly Dr.  
22       McBride's first, second, or third report in this matter  
23       that plaintiffs believe his numbers are unreliable and  
24       inaccurate. The question about Dr. McBride's reports  
25       have a consistent theme in this case from early on. So

1 to plead some amount of surprise now that defendants  
2 will move to exclude portions of his testimony that  
3 we've already moved to exclude, is hard to believe.

4 Now, I understand plaintiff's position, that  
5 they're concerned about some new bases for us coming  
6 out against Dr. McBride's reports. I have to be -- to  
7 be honest, I don't -- I can't right now identify or  
8 think of any new bases, and really, his report, that  
9 DX-10 that we identified earlier, the real problem with  
10 that is it's simply filed out of time and plaintiffs  
11 didn't seek any relief from the scheduling order to  
12 serve it out of time.

13 So plaintiffs have been on notice of that -- of  
14 that untimeliness since the day they served it. So  
15 that shouldn't be a surprise to them either. So I just  
16 don't want to cause a greater problem for the Court  
17 than there may actually be. I don't know on  
18 December 4th if, when we go back and look at our bases,  
19 that we'll identify any new and additional bases.

20 **MR. SELLS:** Your Honor, if they're going to  
21 stick with the Daubert motions that have already been  
22 filed and that you've already ruled on, we're good  
23 because, I think, if they actually go back and look at  
24 the Daubert motions, they were much narrower than they  
25 think their Daubert motions were, and we won't need

1 another expert. But to extent that they broaden those,  
2 you know, one week before trial, that really put us at  
3 an unfair disadvantage.

4 **THE COURT:** Okay. All right. Again,  
5 circumstances, some within and some without our  
6 control, put us where we are. I'll at least do this  
7 much. I'll adjust it back to the 29th, which is a  
8 couple weeks from now and about week before the  
9 December 4th date, for there to be any supplement with  
10 regard to experts. That gives you three or four more  
11 days if it will help you out to that degree, but I  
12 think that's about as much as we can do realistically  
13 is where we are.

14 **MR. SELLS:** Okay.

15 **THE COURT:** Because, again, everybody is  
16 looking at the ultimate date, that, depending on what  
17 the Court's findings are, that will create a whole  
18 nother set of matters. So we've got to suffer some,  
19 you know, a little bit of squeeze on the dates on this  
20 side in order to keep in position to resolve matters  
21 after.

22 **MR. SELLS:** Well, if I understand the Court  
23 correctly, though, if we, on November 29th, notify the  
24 defendant that we plan only to raise the matters in our  
25 Daubert motion that we previously raised on summary

1 judgment and are fine incorporating that record into  
2 the trial record, that that is sufficient for the  
3 Court?

4 **THE COURT:** Yeah, uh-uh, yeah.

5 **MR. SELLS:** Thank you.

6 **THE COURT:** All right. Everybody got the  
7 deadlines that the Court set out? Okay. I will  
8 probably issue a brief summary order restating the  
9 deadlines and things for you. Okay. Yes, ma'am?

10 **MS. MCKNIGHT:** I believe there is one more  
11 issue just on witnesses. This is an issue we have with  
12 a witness identified as a will-call by plaintiffs on  
13 their list, but this is also a witness that plaintiffs  
14 have identified as being introduced by deposition only.  
15 So we discussed this with plaintiffs yesterday and  
16 understand that, indeed, they do intend to submit  
17 testimony for this one witness by both deposition and  
18 live testimony, and we believe that is improper, and we  
19 wanted to get the Court's guidance on how to handle  
20 that.

21 **THE COURT:** All right. Mr. Sells?

22 **MR. SELLS:** The plaintiffs have never  
23 indicated that they would introduce the testimony of  
24 Alice Green by deposition only. The Court previously  
25 in the scheduling order required us to submit

1 deposition designations. We did so. The defendant had  
2 an opportunity to object to our designation of Alice  
3 Green. They did not do so. So I think there's no  
4 objection unless the Court permits the new counsel to  
5 withdraw their prior counsel's lack of objection.

6 **THE COURT:** Okay. I'm still trying to figure  
7 out what's the problem. Is the person appearing as a  
8 witness in the case live?

9 **MR. SELLS:** She is, and by allowing part of  
10 her testimony to come in in written form, it will save  
11 time.

12 **THE COURT:** All right. Ms. McKnight?

13 **MS. MCKNIGHT:** Your Honor, I don't know how  
14 much time it will save really. It's maybe ten pages of  
15 double-spaced deposition testimony. If they want to  
16 bring her in as a witness for them, they're welcome to  
17 ask her questions live here and get the information  
18 before the Court that way. The way that deposition  
19 testimony is designated and put before a court is  
20 always in lieu of live testimony, that's what the  
21 deposition designations were done, so for here, and in  
22 this case, no objections were made, those designations  
23 are in. Now, if the plaintiffs now come and want to  
24 call her live, they're welcome to. They can ask her  
25 the same questions they ask her in deposition and have

1 her testify to the Court live, and she can be under  
2 cross examination there. So our position is it doesn't  
3 make sense and it doesn't save the Court time to have  
4 both live trial testimony and designations of  
5 deposition testimony.

6 **MR. SELLS:** Well, one could do anything  
7 without objection, and there is no objection on the  
8 record to her deposition testimony.

9 **THE COURT:** Well, frankly, what the Court is  
10 asking for designations is so that if there is a person  
11 appearing by deposition, the Court has some signal  
12 ahead of time as to what it will need to address to the  
13 objections to deal with the presentation by way of  
14 deposition, not -- we will not anticipate any  
15 expectation that there will be both deposition  
16 testimony and live testimony. So, I just think it's,  
17 just as a practical matter, if the person is going to  
18 get up and testify, just to give their complete  
19 testimony by live testimony.

20 **MR. SELLS:** Thank you, Your Honor. We will  
21 do that, Your Honor.

22 **THE COURT:** All right. Was there anything  
23 else?

24 **MS. MCKNIGHT:** Nothing for defendants, Your  
25 Honor.

1           **THE COURT:** Okay. All right, then, I  
2 think it is very good, I think you all have gotten  
3 together and have really gotten on this to get this  
4 resolved, and I think we've identified and resolved  
5 most of the matters that were different, and we've  
6 identified those matters that need to be addressed, so  
7 I'll allow you all then to submit -- you want to do  
8 that by Friday?

9           **MS. MCKNIGHT:** That's fine, Your Honor.

10          **MR. SELLS:** That will work.

11          **THE COURT:** And if you all represented that  
12 that is the proposal, as you agreed to, consistent with  
13 the Court's instructions, then that will be the order  
14 the Court expects to sign off on, with the  
15 understanding, of course, that you all have further  
16 supplements if you wish with regard to Dauber matters  
17 by the 29th and the exhibit matters through the 4th,  
18 which you will file by the 6th any objection to those,  
19 and the Court, if necessary, will confirm whether or  
20 not we need to actually have a either phone conference  
21 or in-person conference on Friday the 8th, is it, yeah.  
22 All right. Is that it? Okay, then. Thank you all  
23 very much then.

24          **MS. MCKNIGHT:** Thank you, Your Honor.

25          **THE COURT:** All right. Then we'll adjourn

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

this matter.

---

**CERTIFICATE OF OFFICIAL REPORTER**

*I, Sally L. Gray, Federal Official Court Reporter, in and for the United States District Court for the Middle District of Georgia, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United State, dated this 21st day of November, 2017.*

/s/ SALLY L. GRAY  
**SALLY L. GRAY, CCR, RPR**  
**FEDERAL OFFICIAL COURT REPORTER**