

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

DR. DOROTHY NAIRNE, et al.

CIVIL ACTION

VERSUS

NO. 22-178-SDD-SDJ

**R. KYLE ARDOIN, IN HIS
OFFICIAL CAPACITY AS
SECRETARY OF STATE**

ORDER

The issue before the Court for reconsideration¹ concerns the scope of discovery related to the Louisiana NAACP’s associational standing, including the discoverability of its members’ identities. (R. Doc. 158). On September 8, 2023, this Court issued an Order (R. Doc. 136) denying Defendant Kyle Ardoin’s Motion to Compel (R. Doc. 132) the Louisiana NAACP’s supplemental response to Interrogatory No. 3, which sought the identities of the NAACP’s members “living in each challenged district.” (R. Doc. 119-3 at 12).

“[C]ritical” to the Court’s decision on September 8, 2023, was the lack of any formal challenge² — in any responsive pleading or dispositive motion — to the NAACP’s associational standing. (R. Doc. 136 at 2). Indeed, the Court’s Order explained:

¹ The district judge granted Defendant’s Objection (R. Doc. 144) to the Court’s September 8, 2023 discovery Order (R. Doc. 136) denying Defendant’s Motion to Compel (R. Doc. 132) and referred the issue for reconsideration based on Defendant’s recent challenge to the Louisiana NAACP’s associational standing (R. Doc. 149).

² The Court is aware that Defendant disagrees on this point. In its Objection to the prior Order, Defendant summarily claims it has continuously challenged the NAACP’s associational standing throughout this litigation. (R. Doc. 144-1 at 8) (“Defendant has continuously challenged and attempted to probe Plaintiffs’ representations that Louisiana NAACP has identified members in each challenged district in the Amended Complaint—first in the Answer, Rec. Doc. 32, and most recently at the 30(b)(6) deposition of Mr. McClanahan.”). It has not.

The Court previously reviewed the responsive pleadings and any dispositive motions in connection with September 8, 2023 Order and has again reviewed those filings in connection with this reconsideration. It has found no formal challenge to the NAACP’s associational standing prior to September 8, 2023.

The Court has defined the scope of discovery relating the NAACP's members based on this litigation's current posture. Indeed, were the NAACP's standing to later be challenged by any party or even sua sponte, that would seemingly alter the posture of the litigation and the scope of discovery. In that situation, 'elementary principles of procedural fairness' would likely 'require' that the NAACP have 'an opportunity to provide evidence of member residence.' This may warrant some amount of additional discovery, as well.

(R. Doc. 136 at 3 n.1) (quoting *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 271 (2015)). The Court also found that Interrogatory No. 3 was overly broad as written, which independently warranted denial of the Motion to Compel, regardless of the associational standing issue.

On October 6, 2023, however, the posture of this litigation changed. On that day, Defendant filed a dispositive motion that for the first time challenged the NAACP's associational standing. (R. Doc. 149-1) (Defendant's Motion for Summary Judgment). In light of this formal challenge, the district judge referred this matter for reconsideration of discovery related to the NAACP's associational standing, including the identities of any of its members. (R. Doc. 158).

As the Court previously explained, "elementary principles of procedural fairness" would likely require that the NAACP have an opportunity to provide additional evidence if their associational standing were challenged, which may also "warrant some amount of additional discovery." (R. Doc. 136 at 3 n.1). Now, given Defendant's dispositive motion (R. Doc. 149) and the district judge's referral for reconsideration, additional discovery related to the NAACP's associational standing now seems warranted. However, Interrogatory No. 3, which focuses on this very issue, remains overbroad, and the Court will not compel the NAACP to respond the interrogatory, as written.

Instead, the Court will **discuss** and **resolve** this **discovery issue** — i.e., the scope, extent and timing of additional discovery that may be warranted as to the NAACP’s associational standing³ — with the parties at a Zoom **Video Conference** on **November 2, 2023, at 11:00 a.m.**

The parties are additionally **ORDERED** to meaningfully **confer** by **phone** or **in-person** ahead of the Conference and should make every possible effort to **resolve** this issue and reach an **agreement** ahead of the Conference **without the Court’s involvement**.

If the parties **reach an agreement** ahead of the Conference, and the Court is confident that they will, the parties **must** either: (1) file a joint **Motion to Cancel** the Conference, which should include details of their agreement (i.e., scope, extent and timing of any additional discovery); or (2) **attend** the Conference in order to provide details of their agreement to the Court.

Signed in Baton Rouge, Louisiana, on October 26, 2023.



SCOTT D. JOHNSON
UNITED STATES MAGISTRATE JUDGE

³ See generally, *Students for Fair Admissions, Inc. v. Univ. of Texas at Austin*, 37 F.4th 1078, 1084 (5th Cir. 2022) (“An association has standing to bring claims on behalf of its members when (1) individual members would have standing, (2) the association seeks to vindicate interests germane to its purpose, and (3) neither the claim asserted nor the relief requested requires the individual members’ participation.”); *United States v. Hays*, 515 U.S. 737, 744-45 (1995) (“Where a plaintiff resides in a racially gerrymandered district, however, the plaintiff has been denied equal treatment because of the legislature’s reliance on racial criteria, and therefore has standing to challenge the legislature’s action.”).

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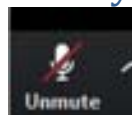
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160-0389-3634	SDD – Chief Judge Shelly D. Dick
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160-0389-3568	JWD – Judge John W. deGravelles
160-0389-3602	RLB – Magistrate Richard L. Bourgeois
160-0389-3584	EWD – Magistrate Erin Wilder-Doomes
160-0389-3592	SDJ – Magistrate Scott D. Johnson
160-0389-3500	LAMD Court (for testing)

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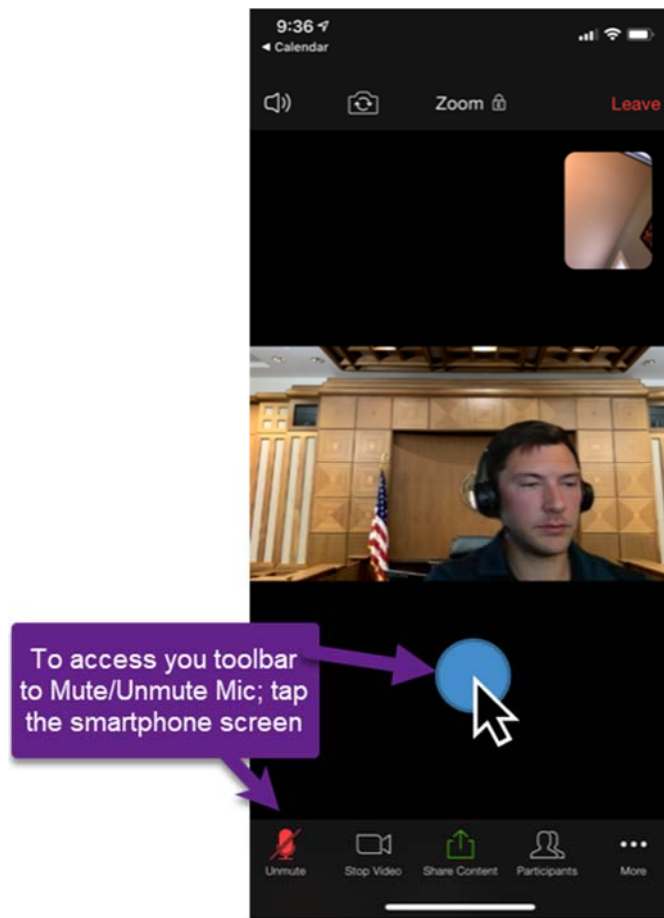
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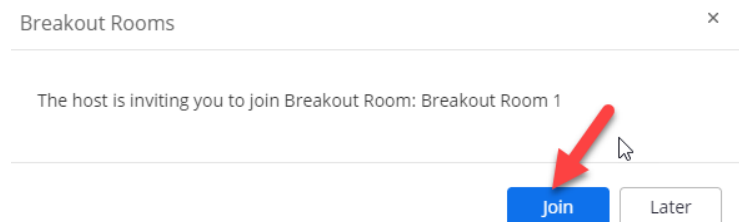
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