

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

FLORIDA STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE
(NAACP), as an organization and representative
of its members; *et al.*,

Civil No. 4:07cv402 SPM/WCS

Plaintiffs,

vs.

KURT S. BROWNING, in his official capacity as
Secretary of State for the State of Florida,

Defendant.

**NOTICE TO THE COURT REGARDING MEDIATION AND
JOINT MOTION TO REVISE PRETRIAL SCHEDULE WITH INCORPORATED
MEMORANDUM OF LAW**

The parties hereby provide notice that they have reached agreement on a mediator, and jointly move to revise the schedule reflected in the Court's Order for Discovery, Mediation and Trial [doc. 177] and Order Granting Plaintiffs' Motion for Extension of Time [doc. 190], and state in support as follows:

1. The parties have selected Justice Major B. Harding to serve as mediator, and are in discussions with Justice Harding regarding scheduling of the first mediation conference.

2. The parties are currently engaged in active discussions regarding the possibility of resolving this litigation without the need to incur further litigation costs. Under the current schedule, however, all parties are likely to incur significant litigation

costs in the next several weeks in order to complete discovery by June 1, 2009, and file dispositive motions by June 19, 2009.

3. Because the parties believe that a resolution of this litigation may be possible that would obviate the need to incur these costs, they have agreed to jointly seek from the Court a modest adjustment of the pretrial schedule that would facilitate resolution of this litigation and avoid further litigation costs.

4. Therefore, the parties respectfully request that the Court adjust the pretrial schedule as set forth below. Should a trial ultimately be necessary, the schedule adjustment requested herein would not affect the trial date of September 21, 2009 ordered by the Court [doc. 177].

5. In particular, the parties request a modification of the scheduling order [doc. 177] as follows:

- Any depositions scheduled to take place before June 1, 2009, would be postponed. The parties may take depositions between June 15, 2009 and July 1, 2009.
- For purposes of third-party discovery pursuant to Federal Rule of Civil Procedure 45, the deadline to complete discovery would be July 1, 2009. The deadline for completion of all other fact and expert discovery would continue to be June 1, 2009.
- Mediation would begin no later than July 15, 2009.
- Dispositive motions would be filed on or before July 20, 2009.

6. This Court has broad discretion under the Federal Rules of Civil Procedure to schedule and efficiently adjudicate matters, including pretrial discovery.

Perez v. Miami-Dade County, 297 F. 3d 1255, 1263 (11th Cir. 2002). In particular, the court has discretion to schedule matters in a manner most likely to avoid unnecessary costs and conserve resources. Entry of an order staying the pretrial schedule for 30 days is likely to further these ends.

CONCLUSION

For the foregoing reasons, the parties respectfully request entry of a scheduling order reflecting the amended dates noted above.

N.D. FLA. LOC. R. 7.1 CERTIFICATION

Pursuant to N.D. Fla. Loc. R. 7.1(B), undersigned counsel states that he has conferred with Defendant's counsel, Peter Antonacci, Allen Winsor, and Andy Bardos, and that they jointly request the relief requested in this motion.

Dated: May 15, 2009

GREENBERG TRAUIG, P.A.

s/Glenn T. Burhans, Jr.

GLENN T. BURHANS, JR.

FLA. BAR NO. 605867

101 EAST COLLEGE AVENUE

TALLAHASSEE, FLORIDA 32301

TEL. (850) 222-6891

FAX (850) 681-0207

**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**

ROBERT A. ATKINS

D. MARK CAVE

LAUREN M. ROTHENBERG

1285 AVENUE OF THE AMERICAS

NEW YORK, NEW YORK 10019-6064

TEL. (212) 373-3000

FAX (212) 492-0289

**BRENNAN CENTER FOR JUSTICE AT
NYU SCHOOL OF LAW**

JUSTIN LEVITT

MYRNA PÉREZ

J. ADAM SKAGGS

161 AVENUE OF THE AMERICAS, 12TH FLOOR

NEW YORK, NEW YORK 10013

TEL. (212) 998-6730

FAX (212) 995-4550

ADVANCEMENT PROJECT

ELIZABETH S. WESTFALL

1730 M. STREET, NW, SUITE 910

WASHINGTON, DC 20036

TEL. (202) 728-9557

FAX (202) 728-9558

PROJECT VOTE

YOLANDA SHEFFIELD

739 8TH STREET SE, SUITE 202

WASHINGTON, DC 20003

TEL. (202) 553-5415

FAX (202) 543-3675

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that a copy of the foregoing *Notice and Motion* was served via the Court's CM/ECF electronic filing system this day, May 15, 2009, upon the following counsel of record:

Peter Antonacci
Allen Winsor
Andy V. Bardos
GrayRobinson, P.A.
Post Office Box 11189
Tallahassee, Florida 32302-3189

*Counsel for Defendant
Kurt Browning*

GREENBERG TRAUIG, P.A.

s/Glenn T. Burhans, Jr.
GLENN T. BURHANS, JR.
FLA. BAR NO. 605867
101 EAST COLLEGE AVENUE
TALLAHASSEE, FLORIDA 32301
TEL. (850) 222-6891
FAX (850) 681-0207