

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

WILLIE RAY, et al.,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	CIVIL NO. 2:06-CV-385(TJW)
	§	
STATE OF TEXAS, et al.,	§	
	§	
Defendants.	§	

ORDER

The parties have conferred and agreed to entry of this Order severing certain of plaintiffs' claims.

Plaintiffs filed a multi-count complaint in this action on September 21, 2006. Two of the claims in that complaint, Counts V and VI, contain allegations of racial discrimination by defendants. The parties agree that those two claims will be severed from the remaining claims in the complaint.

In addition, Count VII alleges a violation of the Due Process Clause of the U.S. Constitution. The parties have further agreed to sever the allegations in Count VII, in part. The severed portion of Count VII is limited to plaintiffs' allegation of a due process violation based on defendants' alleged "racially selective and discriminatory enforcement of Section 86.006 and the other challenged provisions [of the Texas Election Code]." Complaint ¶ 79. The parties agree that plaintiffs' remaining allegations in Count VII are not severed for purposes of the May 2008 trial, including discovery, and that plaintiffs will have the right to pursue, both facially and as-applied, their claims that defendants have violated the Due Process Clause of the Constitution by, among other

things, providing inadequate notice and misinformation (*i.e.*, the non-racial discrimination aspects of Count VII).

The parties have further agreed that discovery on the severed claims shall not commence until December 1, 2008, and that the court will enter an order governing discovery and further proceedings on those severed claims at a later date. The severed claims will be re-numbered and docketed as a new and different case for which there shall be a new scheduling conference at a date to be set by the court no earlier than November 17, 2008.

The existing, non-severed claims shall go forward to trial as set forth in the schedule in this court's January 8, 2008 amended discovery order (Document #32), the Order of January 23, 2008 (Document #35), and the Standard Protective Order (Document #33).