

STATE OF NORTH CAROLINA
COUNTY OF ORANGE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 13 CVS 1419

ALBERTA CURRIE, PARIS VAUGHN,)
CASSANDRA PERKINS, LEAGUE OF)
WOMEN VOTERS OF NORTH)
CAROLINA and NORTH CAROLINA A.)
PHILIP RANDOLPH INSTITUTE INC.)

Plaintiffs,

vs.

THE STATE OF NORTH CAROLINA, and)
THE NORTH CAROLINA STATE BOARD)
OF ELECTIONS,)

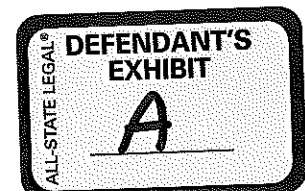
Defendants.

**DEFENDANTS' MOTION TO
RECONSIDER ORDER**

NOW COME Defendants, by and through counsel, pursuant to N.C. R. Civ. P. 60(b)(6), and move the Court to reconsider its Scheduling Order issued on December 8, 2014. In support of this Motion, Defendants show onto the Court as follows:

1. Currently pending in the Middle District of North Carolina are three cases challenging certain provisions of the Voter Information Verification Act, S.L. 2013-381 ("VIVA"), based on federal law. These cases, captioned as League of Women Voters of North Carolina, et al. v. The State of North Carolina, et al., 1:13-cv-660, North Carolina State Conference of the NAACP, et al. v. Patrick Lloyd McCrory, et al., 1:13-cv-658, and United States of America v. The State of North Carolina, et al., 1:13-cv-861, were filed on August 12, 2013, August 12, 2013, and September 30, 2013, respectively.

2. On August 13, 2013, Plaintiffs filed the complaint in the instant case, which challenges certain provisions of VIVA based on State law. An amended complaint was filed in



the instant case on October 3, 2013, and Defendants filed an Answer on November 12, 2013.

3. Plaintiffs in the instant case are represented by the Southern Coalition for Social Justice ("SCSJ"). The SCSJ also represents the plaintiffs in League of Women Voters of North Carolina, et al, v. The State of North Carolina, et al., 1:13-cv-660.

4. Defendants in the instant case are a subset of the defendants named in the federal cases. The attorneys who represent Defendants in the instant case also represent the same defendants in the federal cases.

5. The federal cases were set on a trial calendar by order issued on December 13, 2013. Specifically, the cases were scheduled for trial on the July 2015 Civil Master Calendar.

6. On September 16, 2014, more than a year after filing the initial complaint, Plaintiffs in the instant case filed Plaintiffs' Motion for Judicial Conference. This Court heard Plaintiffs' motion on November 21, 2014, and announced its decision in open court to grant Plaintiffs' request to set trial in this case for July 13, 2014. A written order was filed on December 8, 2014.

7. On December 3, 2014, Defendants filed Defendants' Motion to Reschedule Trial in the federal cases, on the ground that the instant case had been scheduled during the same term as the federal cases. That motion was denied by order filed on December 5, 2014. In denying that motion, the Magistrate Judge noted that the federal cases had been on a trial calendar for almost a year. A copy of this order is attached hereto as Exhibit A.

8. The three federal cases have not been consolidated for trial. Given the setting of this case in the middle of the federal court's six-week calendar, at worst, the State trial will

overlap with one or more federal trials; at best, Defendants will have two trials back-to-back, with no time to prepare for the second trial. Defendants will be severely prejudiced by having insufficient preparation time for trials of this complexity.

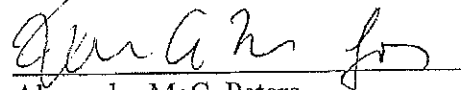
9. Pursuant to Guidelines for Resolving Scheduling Conflicts, adopted by the State-Federal Judicial Council of North Carolina on June 20, 1985, “[t]he case in which the trial date has been first set (by published calendar, order or notice) should take precedence.” A copy of the Guidelines for Resolving Scheduling Conflicts is attached hereto as Exhibit B for the Court’s convenience.

10. The Guidelines for Resolving Scheduling Conflicts also provide that “[t]he judges of the courts involved in a scheduling conflict shall promptly confer, resolve the conflict, and notify counsel of the resolution.”

WHEREFORE, Defendants respectfully pray that the Court grant their Motion to Reconsider Order and reschedule the trial in this case.

This, the 30th day of December, 2014

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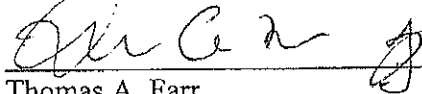
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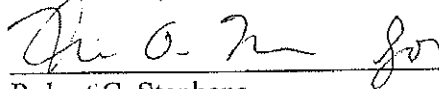
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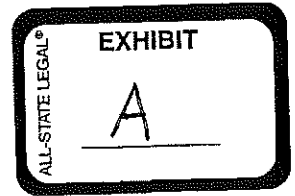
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Counsel for Governor Patrick L. McCrory



IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA STATE CONFERENCE)
OF THE NAACP, et al.,)

Plaintiffs,)

v.)

1:13CV658

PATRICK LLOYD MCCRORY, in his official)
capacity as Governor of North Carolina, et al.,)

Defendants.)

LEAGUE OF WOMEN VOTERS OF)
NORTH CAROLINA, et al.,)

Plaintiffs,)

v.)

1:13CV660

THE STATE OF NORTH CAROLINA, et al.,)

Defendants.)

UNITED STATES OF AMERICA,)

Plaintiff,)

v.)

1:13CV861

THE STATE OF NORTH CAROLINA, et al.,)

Defendants.)

ORDER

These cases come before the Court on Plaintiffs' Motion to Modify Pre-Trial Schedule Order [Doc. #208], Defendants' Motion to Reschedule Trial [Doc. #211], and Plaintiffs'

Motion to Expedite [Doc. #215]. A telephonic motion hearing was held on December 5, 2014, addressing these motions and other discovery and scheduling matters.

With respect first to Defendants' Motion to Reschedule Trial, the Court notes that Defendants seek a continuance of the trial in this case because a parallel proceeding was recently scheduled for trial in state court during July 2015. However, the present cases have been set for trial on this Court's July 2015 Trial Calendar for nearly a year, since the Court's Pretrial Scheduling Conference on December 12, 2013. To the extent Defendants raise concerns regarding the scheduling of the state proceeding, those are matters to address with the state court. To the extent that there may be specific scheduling issues to address in this case, those matters can be addressed with the Trial Judge in this case at any final pretrial conference. However, given the prior setting in this case and the prior determinations that led to that setting, taking into account the issues raised in this case, the various parties' positions regarding scheduling, and the need for a sufficient discovery period in advance of trial, the Court will not delay the previously-set trial date.

With respect to Plaintiffs' Motion to Modify the Pre-trial Schedule Order, the Court will grant that motion in part, as discussed during the telephonic hearing on December 5, 2014. Specifically, the Court will adjust the currently-set discovery dates to alleviate the concerns raised by Plaintiffs regarding the completing of expert reports; however, in doing so, and with Defendants' competing interests in mind, the Court will retain, as much as possible, the periods of time to which Defendants had previously agreed for the filing of dispositive motions.

Accordingly, the Court adopts the following schedule for the completion of discovery. This schedule was proposed by the Court during the December 5, 2014 hearing, and all parties consented to this schedule at that time:

Date	Subject
Feb. 9, 2015	Expert Reports and Disclosures under Rule 26(a)(2)(B) and 26(a)(2)(C) Due
Mar. 9, 2015	Rebuttal Expert Reports Due
Mar. 16, 2015	Sur-Rebuttal Expert Reports Due
Mar. 23, 2015	Close of Discovery
Mar. 30, 2015	Notice of Dispositive Motions Due
Apr. 17, 2015	Dispositive Motions Due
May 1, 2015	Responses to Dispositive Motions Due ¹
May 15, 2015	Replies to Dispositive Motions Due

During the telephonic hearing on December 5, 2014, the Court also inquired as to the status of any outstanding discovery production issues previously raised by the parties. The parties indicated that some issues remained outstanding but were not yet ripe for consideration. Therefore, the Parties will be ordered to file, by the close of business on Tuesday, December 9, 2014, a status report regarding current document production and any other outstanding discovery issues. Any related motions to compel or other requests for

¹ The Court specifically notes that under this schedule, Plaintiffs' time for filing a Response to any dispositive motions filed by Defendants is reduced to 14 days. This adjustment was specifically made to accommodate Plaintiffs' request for additional time at the front-end for providing expert reports, and Plaintiffs consented to this scheduling adjustment. Plaintiffs have agreed that they will be prepared to file responses to dispositive motions on this expedited schedule.

Court intervention must be filed by Wednesday, December 10, 2014. These matters will be set for a telephonic hearing at 11 a.m. on Friday, December 12, 2014 to address any pending discovery production issues that remain outstanding, so that the case can remain on the schedule adopted by the Court above.

Finally, during the December 5, 2014 telephonic hearing, the Court also addressed Plaintiffs' Motion to Expedite [Doc. #215], which seeks to shorten the schedule for objections and responses to the Court's November 20, 2014 Discovery Order. As discussed during the hearing, the Court will not alter the deadlines for filing objections. However, to the extent Defendants may seek to file a Response to Plaintiffs' December 4, 2014 Objections, those responses will be due on or before December 18, 2014. Likewise, to the extent Plaintiffs may seek to file a response to any objections filed by Defendant on or before December 8, 2014, those responses must be filed by December 18, 2014. The parties have consented to these deadlines, and under this schedule, any objections will be fully briefed on or before December 18, 2014.

IT IS THEREFORE ORDERED that Defendants' Motion to Reschedule Trial [Doc. #211 in 1:13CV658] is DENIED, and this matter will remain on the July 2015 Trial Calendar.

IT IS FURTHER ORDERED that Plaintiffs' Motion to Modify Pre-Trial Schedule Order [Doc. #208 in 1:13CV658] is GRANTED IN PART to the extent that the discovery schedule in this matter is modified as set forth above.

IT IS FURTHER ORDERED that Plaintiffs' Motion to Expedite [Doc. #215 in 1:13CV658] is GRANTED IN PART to the extent that all responses to objections to the

Court's November 20, 2014 Discovery Order are due on or before Thursday, December 18, 2014, as set forth above.

FINALLY, IT IS ORDERED that, by 5:00 p.m. on Tuesday, December 9, 2014, the Parties must file a joint status report regarding current document production and any other outstanding discovery issues. Any related motions to compel or other requests for Court intervention must be filed on or before Wednesday, December 10, 2014, and this matter is set for a telephonic status conference at 11:00 a.m. on Friday, December 12, 2014, to address any pending discovery production issues that remain outstanding.

This, the 5th day of December, 2014.

/s/ Joi Elizabeth Peake
United States Magistrate Judge

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067.

GUIDELINES FOR RESOLVING SCHEDULING CONFLICTS

IN ORDER TO PROVIDE A UNIFORM STANDARD FOR THE RESOLUTION OF SCHEDULING CONFLICTS BETWEEN AND AMONG THE STATE AND FEDERAL TRIAL AND APPELLATE COURTS OF NORTH CAROLINA THE FOLLOWING GUIDELINES ARE HEREBY ESTABLISHED:

1. It shall be the duty of counsel, other than solo practitioners, to have another member of the firm reasonably well acquainted with the case to the end that, where practicable, substitution of counsel may be made in order to avoid conflict.
2. In resolving scheduling conflicts the following priorities should ordinarily prevail:
 - a. Appellate cases should prevail over trial cases;
 - b. The case in which the trial date has been first set (by published calendar, order or notice) should take precedence;
 - c. Criminal felony trials should prevail over civil trials;
 - d. Trials should prevail over motion hearings.
 - e. In resolving conflicts between the several divisions of the North Carolina General Court of Justice, the provisions of Rule 3, General Rules of Practice for the Superior and District Courts, shall control.
3. In addition to the above priorities, consideration should be given to the comparative age of the cases, their complexity, the estimated trial time, the number of attorneys and parties involved, whether the trial involves a jury, and the difficulty or ease of rescheduling.
4. It shall be the duty of an attorney promptly upon learning of a scheduling conflict to give written notice to opposing counsel, the clerk of all courts and the presiding judges, if known, in all cases, stating therein the circumstances relevant to a resolution of the conflict under these guidelines.
5. The judges of the courts involved in a scheduling conflict shall promptly confer, resolve the conflict, and notify counsel of the resolution.
6. If the judges of the courts involved are unable to resolve the conflict they shall so notify the chair-

man of the State-Federal Judicial Council of North Carolina. The chairman and vice-chairman of the State-Federal Judicial Council of North Carolina shall then resolve the conflict.

7. Nothing in these guidelines is intended to prevent courts from voluntarily yielding a favorable scheduling position, and judges of all courts are urged to communicate with each other in an effort to lessen the impact of conflicts and continuances on all courts.

ADOPTED by the State-Federal Judicial Council of North Carolina on this the 20th day of June 1985.

J. RICH LEONARD
Secretary

Approved by the respective courts on the dates indicated.

THE UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT

July 8, 1985 HARRISON L. WINTER
Chief Judge

THE SUPREME COURT OF NORTH CAROLINA

July 26, 1985 JOSEPH BRANCH
Chief Justice

THE UNITED STATES DISTRICT COURT FOR THE EAST-
ERN DISTRICT OF NORTH CAROLINA

June 27, 1985 W. EARL BRITT
Chief Judge

THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF NORTH CAROLINA

July 16, 1985 HIRAM H. WARD
Chief Judge

THE UNITED STATES DISTRICT COURT FOR THE WEST-
ERN DISTRICT OF NORTH CAROLINA

July 17, 1985 ROBERT D. POTTER
Chief Judge

CERTIFICATE OF SERVICE


This is to certify that the undersigned has this day served the foregoing **DEFENDANTS'**
MOTION TO RECONSIDER ORDER in the above titled action upon all other parties to this
cause by:

- Hand-delivering a copy hereof to each said party or to the attorney thereof;
- Transmitting a copy hereof to each said party via email; or
- Depositing a copy hereof, first-class postage pre-paid, in the United States mail,
properly addressed to:

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Allison J. Riggs
Clare R. Barnett
George E. Eppsteiner
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Counsel for Individual Plaintiffs
Alberta Currie, Paris Vaughn, Cassandra Perkins

This, the 30th day of December, 2014.



Thomas A. Farr

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