

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, )

*and* )

LOUIS M. DUKE, *et al.*, )  
 )  
Plaintiffs-Intervenors, )

1:13CV660 )

v. )

THE STATE OF NORTH CAROLINA, *et al.*, )  
 )  
Defendants. )

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )

v. )

1:13CV861 )

THE STATE OF NORTH CAROLINA, *et al.*, )  
 )  
Defendants. )

**OBJECTION TO ORDER OF 5 DECEMBER 2014 DENYING DEFENDANTS'  
MOTION TO RESCHEDULE TRIAL**

NOW COME Defendants, by and through undersigned counsel, and hereby OBJECT to the Order of 5 December 2014 insofar as it denies Defendants' Motion to Reschedule Trial in the above-captioned actions. [NAACP D.E. 216; LWV D.E. 214; US D.E. 203]

The above-captioned cases (collectively, "the federal cases") were filed on August 12, 2013 (1:13-cv-658 and 1:13-cv-660), and September 30, 2013 (1:13-cv-861). These cases challenge certain provisions of the Voter Information and Verification Act, S.L. 2013-381 ("VIVA"), based on federal law.

On August 13, 2013, two of the plaintiffs in 1:13-cv-660, namely, The League of Women Voters of North Carolina and the North Carolina A. Philip Randolph Institute, joined with three individuals to file a case in Orange County Superior Court ("the State case"). The State case, captioned *Alberta Currie, Paris Vaughn, Cassandra Perkins, Mary Caitlyn Sanders, Hayley Farless, League of Women Voters of North Carolina and North Carolina A. Philip Randolph Institute Inc. v. The State of North Carolina, and the North Carolina State Board of Elections*, 13 CVS 1419, challenges certain provision of VIVA based on State law. An amended complaint was filed in the State case on October 8, 2013, and an answer was filed on November 12, 2013. The State case has been designated exceptional and is assigned to the Honorable Michael Rivers Morgan.

Plaintiffs The League of Women Voters of North Carolina and the North Carolina A. Philip Randolph Institute are represented in both the federal case and the State case by the Southern Coalition for Social Justice ("SCSJ"). Defendants The State of North

Carolina and The North Carolina State Board of Elections are represented in both the federal cases and the State case by the undersigned attorneys, with the exception of Karl S. Bowers, Jr.

The federal cases have been consolidated for purposes of discovery, but not for trial. A scheduling order was entered in the federal cases on December 13, 2013. That order set the trial in the three cases for the July 2015 Civil Master Calendar.

After months of no activity in the State case, on September 16, 2014, the SCSJ filed Plaintiffs' Motion for Judicial Conference, in which the plaintiffs in the State case requested entry of a scheduling order. Judge Morgan held a judicial conference in the State case on November 21, 2014, at which the SCSJ requested that the trial in the State case be scheduled for July 13, 2015, during the July 2015 Civil Master Calendar in which the federal cases had already been set for trial. Over objections by Defendants' counsel, Judge Morgan granted the SCSJ's request and scheduled the trial in that case for July 13, 2015. The written order, which was filed on December 8, 2014, is attached hereto as Exhibit A. Defendants are filing a motion to reconsider this order contemporaneously with this Objection.

Even if the trials in the instant cases and the State case do not ultimately overlap in specific dates, Defendants will be severely prejudiced by having two (or more) trials of this magnitude and complexity scheduled during the same six-week period. This prejudice will be the direct result of the actions of counsel for the plaintiffs in the State case requesting that the trial in that case be set during the same time period in which this Court had scheduled the federal cases for trial back in December 2013.

In the alternative, if this Court declines to reschedule the trials of the federal cases, then Defendants respectfully request that the Court, following the Guidelines for Resolving Scheduling Conflicts, confer with Judge Morgan regarding the scheduling of the federal and State trials in an equitable manner. A copy of the Guidelines for Resolving Scheduling Conflicts is attached hereto as Exhibit B.

#### CONCLUSION

Defendants object to the Magistrate Judge's denial of their motion to reschedule the federal trials in light of the scheduling of the trial in the State case for July 13, 2015. Defendants respectfully request that this Court reschedule the trials in the instant matter or, in the alternative, confer with Judge Morgan regarding the scheduling of the trials in the federal cases and the trial in the State case in a way that avoids severe prejudice to Defendants.

This, the 19th day of December, 2014.

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**CERTIFICATE OF SERVICE**

I, Katherine A. Murphy, hereby certify that I have this day electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will provide electronic notification of the same to the following:

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This, the 19th day of December, 2014.

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