

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

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

Plaintiffs,

v.

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

Defendants.

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

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

UNITED STATES OF AMERICA,

Plaintiffs,

v.

THE STATE OF NORTH CAROLINA, et al.,

Defendants.

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

Case No.: 1:13-CV-658

Case No.: 1:13-CV-660

Case No.: 1:13-CV-861

Plaintiffs North Carolina State Conference of the NAACP *et al.* (hereinafter, the “NAACP Plaintiffs”) hereby oppose Defendants’ motion to reschedule the trial date in this case.

As Magistrate Judge Peake noted in denying Defendants’ motion in the first instance, these cases have been scheduled for trial during the Court’s July 2015 Trial Calendar for over a year. [ECF No. 216].¹ Indeed, this was the date the Defendants preferred when other Plaintiffs, such as the NAACP Plaintiffs, asked for an earlier trial date. Accordingly, the parties have thus for many months structured their discovery and litigation efforts toward preparing for trial in July 2015. Defendants should not be permitted to upend this long-scheduled trial date this late in the day.

Plaintiffs would also be prejudiced by any further delay in the trial schedule. By the time of a July 2015 trial, these cases will have been pending for almost two years. [See ECF No. 1]. There is no warrant for delaying even longer a resolution of Plaintiffs’ claims. Moreover, delaying the trial date beyond July 2015 creates the risk that Plaintiffs will not be able to obtain a final resolution of their claims—including all avenues of appellate review—before the 2016 election. As the Department of Justice notes, [see ECF No. 224], the election cycle in North Carolina could start as early as January 2016, meaning that this Court (not to mention the Fourth Circuit and potentially the Supreme Court) will need the full time period between July 2015 and January 2016 to fully hear

¹ Pleadings cited herein were filed in all three of the related cases. Citations are to documents filed in *North Carolina State Conference of the NAACP v. McCrory*, No. 1:13-cv-658.

and resolve Plaintiffs' claims. Moreover, it had been previously argued that the temporal proximity of a pending election should be a reason for denying Plaintiffs their requested relief. Those arguments suggest that it is in the interest of all parties for the July 2015 trial date to stand and for Plaintiffs' claims to be resolved as far in advance of 2016 elections as possible.

Defendants' sole basis for moving to reschedule the trial date is that a North Carolina state court recently scheduled trial in a related case for July 13, 2015 (the "State Case"). Significantly, the State Case trial date was set on November 21, 2014—eleven months after this Court had scheduled the Federal Cases for trial. The NAACP Plaintiffs respectfully submit that the State Court's setting of a trial date eleven months after this Court had already scheduled trial for the same time should not impact this Court's schedule. If Defendants have concerns about their ability to try both cases in July 2015, the NAACP Plaintiffs submit that the Court should order Defendants and the League of Women Voters Plaintiffs to ask the state court to postpone the State Case trial. The proper result here, in other words, is to postpone the recently scheduled State Court trial—not to postpone (to Plaintiffs' prejudice) the long-standing July 2015 trial date for these cases.

The NAACP Plaintiffs also agree with Defendants' suggestion, [*see* ECF No. 222 at 4], that this Court could contact Judge Morgan in the State Case and request that he postpone the trial date in the State Case.

Dated: January 5, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Daniel T. Donovan, hereby certify that, on January 5, 2015, I filed a copy of the foregoing Plaintiffs' Response to Objection to Order of 5 December 2014 Denying Defendants' Motion to Reschedule Trial using the CM/ECF system, which on the same date sent notification of the filing to the following:

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