

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.

**UNITED STATES' NOTICE
REGARDING RETENTION OF
JANUARY TRIAL SCHEDULE**

Civil Action No. 1:13-cv-658

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

Plaintiffs,

v.

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

Defendants.

Civil Action No. 1:13-cv-660

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

Civil Action No. 1:13-cv-861

United States' Notice Regarding Retention of January Trial Schedule

On November 2, 2015, Plaintiffs filed a joint Rule 26(f) report setting out proposed deadlines regarding discovery and trial of the Plaintiffs' claims related to North Carolina's voter photo identification requirement. *See* 13-CV-861, ECF No. 364. Consistent with the Court's instructions at its October 23, 2015 status conference, the Plaintiffs proposed a trial of no more than four days beginning January 25, 2016. *Id.* ¶ 8. The Plaintiffs further agreed to inform the parties and the Court by November 13, 2015 if they intend to file a preliminary injunction motion. *Id.* ¶ 10. On November 4, 2015, the Court issued a text order adopting the schedule set out in the Rule 26(f) report, provided that if Plaintiffs give notice that they intend to move for a preliminary injunction, "Defendants may timely object to the remainder of the pretrial schedule and propose an alternative schedule."

Plaintiff United States respectfully files this notice requesting that the Court proceed with the January 25, 2016 trial and related deadlines set out in the parties' Rule 26(f) report. The United States believes that trial on the remaining issues in this litigation can be completed in January and that a full and prompt resolution of this matter, as far in advance of the 2016 elections as possible, is in the best interest of North Carolina voters.

Pursuant to the Court's June 26, 2015 order deferring challenges to the voter identification provisions of HB 589, *see* 13-cv-861, ECF No. 282 ¶ 2, the United States presented evidence during the July 2015 trial related to provisions of HB 589 which abolished same-day registration, curtailed the early voting period, and prohibited the

counting of out-of-precinct provisional ballots. Some of the evidence presented by the United States and other Plaintiffs regarding the discriminatory purpose of these provisions also demonstrated that the legislature's enactment of HB 589's ID requirement was motivated by a discriminatory purpose. At the January 2016 trial, the United States intends to present additional evidence specific to the voter identification provisions in support of its claim that the ID requirement was enacted with a discriminatory purpose.

The likely effect of a legislature's action is "an important starting point" for assessing discriminatory purpose. *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 266 (1977). The United States anticipates that its additional evidence related to the discriminatory purpose of the ID requirement will include (but not necessarily be limited to) evidence of the discriminatory effect of HB 589's voter photo ID requirement as originally enacted, including an analysis of ID possession among registered voters based on data collected in 2014. This analysis was prepared by Dr. Charles Stewart and is extensively described in those portions of his February 18, 2015 expert report (PX242) and March 24, 2015 surrebuttal report (PX254) on which the United States indicated it would not rely for the July proceedings. In addition, as contemplated by the Rule 26(f) report, Dr. Stewart may prepare a brief supplemental report to be served by December 4, 2015.

Dated: November 13, 2015

RIPLEY RAND
United States Attorney
Middle District of North Carolina

JUSTIN LEVITT
Deputy Assistant Attorney General
Civil Rights Division

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CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2015, I electronically filed the foregoing **Notice Regarding Retention of January Trial Schedule**, using the CM/ECF system in case numbers 1:13- cv-658, 1:13- cv-660, and 1:13-cv-861, which will send notification of such filing to all counsel of record.

/s/ David G. Cooper _____

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