

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LEAGUE OF WOMEN VOTERS OF
MICHIGAN, ROGER J. BRDAK,
FREDERICK C. DURHAL, JR., JACK E.
ELLIS, DONNA E. FARRIS, WILLIAM
“BILL” J. GRASHA, ROSA L. HOLLIDAY,
DIANA L. KETOLA, JON “JACK” G.
LASALLE, RICHARD “DICK” W. LONG,
LORENZO RIVERA and RASHIDA H.
TLAIB,

Plaintiffs,

v.

RUTH JOHNSON, in her official capacity
as Michigan Secretary of State,

Defendant.

Case No. 17-cv-14148

Hon. Eric L. Clay
Hon. Denise Page Hood
Hon. Gordon J. Quist

**Defendant’s *Ex Parte* Motion
For Expedited Briefing
And Consideration**

Joseph H. Yeager, Jr. (IN 2083-49)
Harmony A. Mappes (IN 27237-49)
Jeffrey P. Justman (MN 390413)
FAEGRE BAKER DANIELS LLP
300 North Meridian Street, Suite 2700
Indianapolis, IN 46204
Telephone: (317) 237-0300
Fax: (317) 237-1000
Jay.Yeager@FaegreBD.com
Harmony.Mappes@FaegreBD.com
Jeff.Justman@FaegreBD.com
Counsel for Plaintiffs

Mark Brewer (P35661)
GOODMAN ACKER P.C.
17000 West Ten Mile, Second Floor
Southfield, MI 48075
Telephone: (248) 483-5000
Fax: (248) 483-3131
MBrewer@goodmanacker.com
Counsel for Plaintiffs

Dickinson Wright PLLC
Peter H. Ellsworth (P23657)
Ryan M. Shannon (P74535)
Special Assistant Attorneys General
215 S. Washington Sq., Suite 200
Lansing, MI 48933
(517) 371-1700
PEllsworth@dickinsonwright.com
RShannon@dickinsonwright.com
Attorneys for Defendant

DEFENDANT’S *EX PARTE* MOTION FOR EXPEDITED BRIEFING AND CONSIDERATION

Defendant Ruth Johnson (“Defendant”), by and through her attorneys Dickinson Wright PLLC, hereby moves this Court on an *ex parte* basis pursuant to FED. R. CIV. P. 6(C)(1)(C) for an Order expediting the briefing and consideration of her Motion to Compel.

In support of this Motion, Defendant relies on the facts, law, and argument set forth in the accompanying Brief in Support. Pursuant to E.D. Mich. L.R. 7.1, concurrence in the instant relief was requested from opposing counsel, but no such concurrence was obtained.

WHEREFORE, Defendant respectfully requests that this Court:

- i. Enter an Order that Plaintiffs’ Response to Defendant’s Motion to Compel shall be filed within 5 days of the Defendant’s filing of said Motion;

- ii. Enter an Order that any reply in further support of the Defendant's Motion to Compel shall be filed within 3 days of the filing of Plaintiffs' response; and
- iii. Consider and resolve her Motion to Compel on an expedited basis, with or without a hearing.

Respectfully submitted,

DICKINSON WRIGHT PLLC

/s/ Peter H. Ellsworth
Peter H. Ellsworth
Attorneys for Defendant

Dated: July 23, 2018

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LEAGUE OF WOMEN VOTERS OF
MICHIGAN, ROGER J. BRDAK,
FREDERICK C. DURHAL, JR., JACK E.
ELLIS, DONNA E. FARRIS, WILLIAM
“BILL” J. GRASHA, ROSA L. HOLLIDAY,
DIANA L. KETOLA, JON “JACK” G.
LASALLE, RICHARD “DICK” W. LONG,
LORENZO RIVERA and RASHIDA H.
TLAIB,

Case No. 17-cv-14148

Hon. Eric L. Clay
Hon. Denise Page Hood
Hon. Gordon J. Quist

Plaintiffs,

v.

RUTH JOHNSON, in her official capacity
as Michigan Secretary of State,

Defendant.

**DEFENDANT RUTH JOHNSON’S BRIEF IN SUPPORT OF HER *EX*
PARTE MOTION FOR EXPEDITED BRIEFING AND CONSIDERATION**

ISSUE PRESENTED

With the close of discovery scheduled for August 24, 2018, Plaintiffs served their Responses to Defendant Ruth Johnson’s (“Defendant”) First Set of Interrogatories and Document Requests to Plaintiffs on July 10, 2018 (the “Responses”). Those Responses are now the subject of Defendant’s Motion to Compel, which if decided according to the ordinary briefing schedule, will not be resolved before mid-August. Should the Court order expedited briefing and consideration of the Defendant’s Motion to Compel?

CONTROLLING OR MOST APPROPRIATE AUTHORITY

FED. R. CIV. P. 6(c)(1)(C)

RELEVANT FACTS AND LEGAL ARGUMENT

Discovery is scheduled to close in this matter on August 24, 2018. (ECF No. 53, Pg. ID 939). As the discovery deadline looms, a dispute has now arisen in relation to the adequacy of Plaintiffs' Responses to Defendant's First Set of Interrogatories and Document Requests (sometimes, the "Responses").

Defendant served upon Plaintiffs her First Set of Interrogatories and Document Requests on June 12, 2018, and received Plaintiffs' Responses on July 10, 2018. As explained in detail in Defendant's Motion to Compel, Plaintiffs' Responses failed to provide the requested relevant and non-privileged information that Defendant needs to adequately defend this case. The parties' attorneys met and conferred in an attempt to resolve issues related to Plaintiffs' Responses via telephone on July 17, 2018. But no resolution was reached, necessitating Defendant's request for relief from this Court.

Under the briefing schedule provided by E.D. Mich. L.R. 7.1(e)(2), briefing would typically not be completed until 21 days after the filing of Defendant's Motion to Compel. Thus, on the ordinary briefing schedule, it would likely not be until the middle of August (at the earliest) that this Court could rule on said Motion. Given the August 24 discovery cut-off, Defendant would be severely prejudiced in the event that this Court finds that the requested information is discoverable.

Specifically, Defendant's time to adequately prepare for deposition discovery and otherwise defend this case will be significantly and needlessly limited.

Fed. R. Civ. P. 6(c)(1)(C) authorizes this Court to expeditiously resolve Defendant's Motion to Compel. Specifically, it provides that "[a] written motion and notice of the hearing must be served at least 14 days before the time specified for the hearing, *with the following exceptions* ... when a court order—which a party may, for good cause, apply for *ex parte*—sets a different time." *Id.* Such good cause is shown when a party's motion faces time constraints under an approaching discovery deadline. *See Norfolk S. Ry. Co. v. Int'l Ass'n of Sheet Metal*, No. 2:16-cv-14278, at 1-2, (E.D. Mich. June 6, 2017) (ordering expedited briefing and hearing date in relation to "time sensitive" motion to compel where discovery deadline was near); *see also Arndt v. Ford Motor Co.*, 2:15-cv-11108, at 1-2, (E.D. Mich. February 11, 2015) (ordering expedited briefing schedule "because of the time constraints" where party's response to motion to continue deposition would have fallen on the very day the requested deposition was to begin) (all unpublished orders attached as **Exhibit 1**).

Accordingly, Defendant requests that this Court grant her *Ex Parte* Motion for Expedited Briefing and Consideration.

Respectfully submitted,

DICKINSON WRIGHT PLLC

/s/ Peter H. Ellsworth
Peter H. Ellsworth
Attorneys for Defendant

Dated: July 23, 2018

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2018, I caused to have electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to all counsel of record in this matter.

Respectfully submitted,

/s/Ryan M. Shannon (P74535)