

Via CM/ECF

December 23, 2019

The Honorable Alvin K. Hellerstein
United States District Judge
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: *Center for Popular Democracy Action, et al. v. Bureau of the Census, et al.*, No. 1:19-cv-10917 (S.D.N.Y.)

Dear Judge Hellerstein:

We represent the Plaintiffs Center for Popular Democracy Action (“CPD Action”) and the City of Newburgh, NY (“Newburgh”) in the above-captioned matter, along with the undersigned counsel. We write to respectfully request a Rule 16(b) pre-trial conference with the Court to discuss an expedited case schedule based on the needs of this case, including an expedited briefing schedule for Plaintiffs’ planned preliminary injunction motion and any motion(s) that Defendants intend to file, including a possible transfer motion indicated in Defendants’ most recent filing. Dkt. No. 27 at 13 n.2.¹ As explained herein, Plaintiffs’ requested relief in this action relates to Defendants’ plans for conducting the 2020 Census, and may be rendered moot if this matter does not proceed in an expedited fashion.

Plaintiffs CPD Action and Newburgh bring this action to challenge Defendants’ decisions to drastically reduce the key resources needed to conduct the 2020 Census and, in particular, the resources needed to reach communities like those represented by Plaintiffs, consisting of African-American, Latino, low-income, and other populations that the Census Bureau terms “hard-to-count.” Defendants’ cuts to these key resources include cutting the total number of census takers by a third and the number of field offices by half from the 2010 Census, reducing their community outreach and communications programs, and removing key sites for providing information to hard-to-count communities. All of this has occurred despite both a significantly larger population and growing mistrust in the government, and in contravention of explicit Congressional directives to devote these necessary resources to such hard-to-count communities. Defendants’ decisions to slash these key resources are unconstitutional because they do not bear “a reasonable relationship to the accomplishment of an actual enumeration of the population,” *Wisconsin v. City of New York*, 517 U.S. 1, 20 (1996); and arbitrary and capricious because they are not justified by relevant factors, 5 U.S.C. § 706(2)(A); *see also* 5 U.S.C. § 706(2)(B).

As Defendants acknowledge in their opposition to the motion to expedite the record, 2020 Census operations are underway, and the bulk of census operations will be completed by the summer of 2020. *See* Dkt. No. 27 at 2–4. Accordingly, the resolution of Plaintiffs’ vital constitutional and statutory claims must proceed expeditiously if Plaintiffs are to obtain meaningful, effective relief.

¹ Plaintiffs’ reply brief in further support of their motion to compel expedited production of the administrative record is forthcoming.

District courts have “broad discretion to direct and manage the pre-trial discovery process.” *Wills v. Amerada Hess Corp.*, 379 F.3d 32, 41 (2d Cir. 2004) (reviewing a district court’s discovery rulings for abuse of discretion); *see also Natixis Fin. Prod. LLC v. Bank of Am., N.A.*, 2016 WL 7165981, at *4 (S.D.N.Y. Dec. 7, 2016) (noting that the district court “under Rule 26 has discretion to control the sequence and timing of discovery and to impose limitations or conditions on that discovery”). This Court has the discretion to order an expedited case schedule consistent with the needs of this case, including expedited briefing schedules for any motions the parties will file.

In light of the foregoing, Plaintiffs respectfully request a Rule 16(b) conference with this Court to discuss a reasonable method for expediting consideration of Plaintiffs’ vitally important constitutional and statutory claims, including the setting of an accelerated briefing schedule for Plaintiffs’ forthcoming preliminary injunction motion.

Respectfully submitted,

/s/Jeremy M. Creelan,

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² This letter does not purport to state the views of Yale Law School, if any.

*Law student interns. Petition to practice forthcoming.