

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

COMMON CAUSE, *et al.*,)
)
Plaintiffs,)
)
v.)
)
ROBERT A. RUCHO, in his official)
capacity as Chairman of the North)
Carolina Senate Redistricting)
Committee for the 2016 Extra Session)
and Co-Chairman of the Joint Select)
Committee on Congressional)
Redistricting, *et al.*,)
)
Defendants.)

CIVIL ACTION
No. 1:16-CV-1026-WO-JEP

THREE-JUDGE COURT

League of Women Voters of North)
Carolina, *et al.*,)
)
Plaintiffs,)
)
v.)
)
Robert A. Rucho, in his official capacity)
as Chairman of the North Carolina)
Senate Redistricting Committee for the)
2016 Extra Session and Co-Chairman of)
the 2016 Joint Select Committee on)
Congressional Redistricting, *et al.*,)
)
Defendants.)

CIVIL ACTION
No. 1:16-CV-1164-WO-JEP

THREE JUDGE COURT

**LEGISLATIVE DEFENDANTS' REPLY IN SUPPORT OF MOTION TO STAY
AUGUST 27, 2018 ORDER**

Yesterday, the Court entered an Order declining to enjoin the use of the 2016 Congressional Redistricting Plan (“2016 Plan”) in the November 6, 2018 general election. (D.E. 150).¹ In the same Order, the Court ordered all Plaintiffs and State Defendants to file a response to Legislative Defendants’ Motion to Stay (D.E. 146) the Court’s August 27, 2018 Order (D.E. 142) prohibiting the use 2016 Plan after the November 6, 2018 general election. In giving this directive, the Court asked the Plaintiffs and State Defendants to “focus on whether Legislative Defendants will suffer irreparable harm from our order to not allow the use of the unconstitutional 2016 Plan beyond the November 6, 2018, general election.” (D.E. 150, p. 3).

Before the Court entered its Order yesterday, the Common Cause Plaintiffs filed a response to Legislative Defendant’s Motion to Stay stating their belief that permitting the Supreme Court an opportunity to “speedily” review this Court’s judgment “before a remedy is implemented” would be the “most prudent course.” (D.E. 149, p. 2). Although Legislative Defendants disagree with the Common Cause Plaintiffs’ assertion that this Court’s judgment should be affirmed, they agree that allowing the Supreme Court an opportunity to review this Court’s decision before any remedy is implemented is indeed the “most prudent course.” Earlier today, the League of Women Voters Plaintiffs filed a response to the Court’s Order yesterday requesting that the Court “consider commencing remedial plan action in May of 2019” or, alternatively, enter a stay on two conditions proposed by the Common Cause Plaintiffs. (D.E. 151, pp. 2-3).

¹ All docket entries cited correspond with the docket entries in Case No. 1:16-cv-1026.

Legislative Defendants strongly disagree with the contentions by Plaintiffs that they seek to delay the ultimate resolution of this matter. Legislative Defendants seek only to ensure that the Supreme Court can review this case before any remedial proceedings begin. Accordingly, Legislative Defendants do not oppose Plaintiffs' proposal to condition entry of a stay pending the completion of Supreme Court review of the August 27, 2018 Order on the following: (1) that Legislative Defendants will file their Jurisdictional Statement with the Supreme Court by October 1, and (2) that Legislative Defendants will seek no requests for extension of time while their appeal is pending before the Supreme Court.

Accordingly, Legislative Defendants request that this Court stay its Order of August 27, 2018 pending Supreme Court review.

Respectfully submitted this 5th day of September, 2018.

OGLETREE, DEAKINS, NASH
SMOAK & STEWART, P.C.

/s/ Phillip J. Strach

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CERTIFICATE OF COMPLIANCE WITH WORD LIMITATION

I hereby certify that the total word count for the body of the foregoing reply including headings and footnotes is 417 words.

CERTIFICATE OF SERVICE

I, Phillip J. Strach, 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 5th day of September, 2018.

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