

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LAKEISHA CHESTNUT, an individual;
MARLENE MARTIN, an individual;
BOBBY DUBOSE, an individual;
RODNEY LOVE, an individual; JANICE
WILLIAMS, an individual; KAREN
JONES, an individual; RODERICK
CLARK, an individual; JOHN HARRIS, an
individual,

Plaintiffs,

v.

JOHN H. MERRILL, in his official
capacity as Alabama Secretary of State,

Defendant.

Case No. 2:18-cv-907-KOB

AMENDMENTS TO THE PARTIES' RULE 26(F) REPORT

The Parties submit amendments to their previously-filed Rule 26(f) Report pursuant to the Court's October 16, 2018 Order (ECF No. 25). The Parties submit that the Rule 26(f) report filed on September 4, 2018 (ECF No. 20) shall continue to govern this litigation, but Sections 3, 4 and 7 of that Report shall be amended as follows:

3. Initial Disclosures.

Plaintiffs: Plaintiffs served their initial disclosures on September 4, 2018, 14 days after the Rule 26(f) conference, Dkt. No. 20 ¶ 1, in accordance with Federal Rule of Civil Procedure 26(a)(1)(C). Plaintiffs propose that Defendant serve his initial disclosures immediately.

Defendants: Secretary Merrill contends that initial disclosures should not occur until three weeks after the Court rules on Secretary Merrill's motion for judgment on the pleadings and any appeals are made final. (Secretary Merrill notes that the undersigned counsel for Defendant from the Attorney General's Office expect to be in a bench trial before Hon. Keith Watkins, United States District Judge for the Middle District of Alabama, beginning November 7, 2018, through November 28, 2019, except for November 12, 14, 16, and 21.) In the alternative, Secretary Merrill suggests that initial disclosures be exchanged two weeks after this report is filed.

4. Discovery Plan. The Parties propose the following discovery plan:

(a) Discovery will be needed on these subjects: Plaintiffs seek discovery on their claims and requests for relief. Secretary Merrill seeks discovery on the Plaintiffs' proposed plan, their standing, and on his defenses to Plaintiffs' claims.

(b) Plaintiffs: Fact discovery has commenced (pursuant to the Parties' Rule 26(f) Report, Dkt. 20 ¶ 4), and shall be completed by **March 15, 2019**. Defendant's decision to file a motion for judgment on the pleadings nearly three months after filing his Answer does not warrant further delay of the case schedule.

Defendant: Secretary Merrill has filed a motion for judgment on the pleadings and a motion for a stay of discovery while that motion is pending. He contends that discovery should not begin until the Court rules on those threshold issues, one or more of which would end the litigation if the Court agrees with his arguments. Secretary Merrill contends that a 6-8 month discovery period is likely appropriate for this case once the Court resolves those motions, assuming the case goes forward. In the alternative, if discovery begins now, Secretary Merrill suggests that discovery should be completed by **June 28, 2019**.

(c) Absent leave of Court or consent of the parties, each party shall serve no more than 25 interrogatories (including sub-parts) upon another party.

(d) Absent leave of Court or consent of the parties, each party shall serve no more than 25 requests for admission upon another party.

(e) Absent leave of Court or consent of the parties, each party shall take no more than 15 depositions.

(f) Absent leave of Court or consent of the parties, each fact discovery deposition shall not exceed seven (7) hours of testimony.

(g) Plaintiffs: Absent leave of Court or consent of the parties, Plaintiffs shall serve expert reports no later than **December 21, 2018**. Absent leave of Court or consent of the parties, Defendant shall serve expert reports no later than **January 25, 2019**. Absent leave of Court or consent of the parties, Plaintiffs shall serve any reply expert reports no later than **February 8, 2019**. All expert discovery must be completed by **March 15, 2019**.

In the proposed schedule below, Defendant requests that Defendant's expert reports be due more than *nine weeks* after Plaintiffs' reports are due. Even if the Court does not adopt Plaintiffs' proposed schedule, Plaintiffs request that their expert reports be due no more than five weeks prior to the date that Defendant's expert reports are due, in accordance with the typical practice.

Defendant: If discovery is not stayed while Defendant's Motion for Judgment on the Pleadings is pending, Defendant contends that one month, including the holidays, is not at all sufficient for Defendant to respond to Plaintiffs' expert reports, which Defendant expects to include a proposed districting plan. Defendant thus suggests the following: Absent leave of Court or consent of the parties, Plaintiffs shall serve expert reports no later than **December 21, 2018**. Absent leave of Court or consent of the parties, Defendant shall serve expert reports no later than **February 28, 2019**. Absent leave of Court or consent of the parties, Plaintiffs shall serve any reply expert reports no later than **March 29, 2019**. All expert discovery must be completed by **June 28, 2019**.

(h) Absent leave of Court or consent of the parties, each party shall serve no more than 25 requests for production (including discrete subparts) upon another party.

7. Other Items:

(a) Plaintiffs: Plaintiffs are available for a meeting with the Court prior to the entry of a Scheduling Order, but do not believe such a meeting is necessary at this time. Defendants request a meeting with the Court prior to entry of a Scheduling Order.

(b) Absent leave of Court or consent of the parties, the Plaintiffs shall have until **October 4, 2018** to amend their pleading or join parties.

(c) Absent leave of Court or consent of the parties, the Defendants shall have until **October 18, 2018** to amend his pleading or join parties.

(d) Plaintiffs: Dispositive motions shall be filed no later than **April 4, 2019**. Oppositions shall be filed no later than 30 days from the date of service. Replies shall be filed no later than 14 days from the date of service of an opposition.

Defendant: If the Court does not stay discovery while Defendant's Motion for Judgment on the Pleadings is pending, Defendant suggests that dispositive motions shall be filed no later than **July 26, 2019**. Oppositions shall be filed no later than 30 days from the date of service. Replies shall be filed no later than 14 days from the date of service of an opposition.

(e) The Parties agree that there is no possibility of settlement.

(g) Plaintiffs suggest that the Court schedule a bench trial in this case on **July 1, 2019**.

Defendant suggests that the Court stay discovery while his Motion for Judgment on the Pleadings is pending and that trial not be set at this time. In the alternative, Defendant suggests that trial be scheduled for November 2019.

The Parties anticipate a one-week trial.

Dated: November 5, 2018

Respectfully Submitted,

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