

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LEAGUE OF WOMEN VOTERS	)	
OF MICHIGAN, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 2:17-cv-14148
	)	
RUTH JOHNSON, in her official	)	
capacity as Michigan Secretary of	)	
State, et al.,	)	
	)	
Defendants.	)	
	)	

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ORDER TO SUPPLEMENT THE PROPOSED JOINT AND FINAL PRETRIAL ORDER  
DIRECTED TO ALL COUNSEL OF RECORD

The Court, having received and reviewed the parties’ Proposed Joint and Final Pretrial Order, finds said order to be in substantial compliance with the requirements of Local Rule 16.2. However, in order to facilitate the parties’ presentation of the legal and factual issues involved in the case, and as discussed by the Court in the Final Pretrial Conference, the Court hereby orders the parties to file a Supplement to the Proposed Joint and Final Pretrial Order (“Supplemental Proposed Order”) that complies with the requirements set out below and clarifies how the parties intend to present their cases at trial. This Order shall be controlling to the extent that there are any discrepancies between this Order and the parties’ Proposed Joint and Final Pretrial Order. See attached Proposed Joint and Final Pretrial Order.

**WHEREBY**, the Court **HEREBY ORDERS** the parties to file a Supplemental Proposed Order containing the following information, organized according to the headings provided below. The Court’s instructions for what must be contained within each heading and sub-heading are provided in italics.

**1. Disputed Issues of Fact and Law**

- a. **Disputed Issues of Fact.** *For each disputed issue of fact, the party claiming that a factual issue is disputed must indicate the legal issue(s) to which the factual issue pertains and provide at least one citation to legal authority in support of the relevance of the disputed factual issue.*
- b. **Disputed Issues of Law.** *For each disputed issue of law, the party asserting the existence of the legal issue shall provide at least one citation to legal authority in support of the relevance of the disputed legal issue.*
- c. **Anticipated Disputed Evidentiary Issues.** *Anticipated evidentiary issues that are pending and unresolved shall be identified, with citations to relevant legal authority, no later than ten (10) days from the date of this order.*

**2. Exhibits**

- a. **Exhibit Lists.** *The parties shall file supplemental exhibit lists, including exhibits previously listed in the parties' Proposed Joint and Final Pretrial Order, to the extent that the parties still intend to utilize those exhibits, that conform to the following requirements:*
  - i. *For each listed exhibit, the party offering the exhibit shall specify, with particularity, (1) the factual and/or legal issue(s) to which the identified exhibit pertains, see Part 1 above, and (2) any witness(es) who will provide testimony regarding the exhibit.*
  - ii. *For each exhibit listed by another party, an opposing party shall identify, with particularity, the nature of any anticipated objection(s) that party may make to the exhibit. If a party fails to note any anticipated objection(s) to a given*

*exhibit listed by another party, the opposing party may be deemed to have waived any objection(s) to the exhibit in question.*

*iii. All exhibit lists shall be in size 12 font.*

**b. Agreed Upon/Stipulated Exhibits.** *The parties shall provide a list of agreed upon/stipulated exhibits.*

**c. No Overlapping Exhibits.** *The parties may not provide overlapping exhibits to which neither party objects. Said exhibits shall be contained within the list of agreed upon/stipulated exhibits.*

**d. Exhibit Binders.** *The parties shall provide exhibit binders that contain each exhibit identified in each exhibit list (i.e., each party's exhibit list and the list of agreed upon/stipulated exhibits). The binders shall be catalogued, well-organized, and tabulated. The parties shall provide seven (7) copies of each exhibit binder to the Court no later than ten (10) days from the date of entry of this order.*

### **3. Witnesses**

**a. Witness Lists.** *Each party shall provide a list of witnesses, organized into two categories: (1) expert witnesses and (2) lay witnesses. The witness list shall also provide the order in which each party intends to call each identified witness. This is in lieu of the witness lists previously submitted by the parties pursuant to the parties' previously-submitted Proposed Joint and Final Pretrial Order. For each witness identified by a party, that party must:*

- i. Designate the witness as a "Will Call" or "May Call" witness;*
- ii. Provide a summary of the witness' anticipated testimony;*
- iii. Explain how each witness' anticipated testimony relates to one or more disputed factual and/or legal issue(s) identified in Part 1 above;*

- iv. *Estimate, with as much precision as possible, the amount of time the party anticipates it will need to examine the witness; and*
- v. *List any exhibits that may be pertinent to the witness' testimony.*
- vi. *In addition, if a party intends to cross-examine a witness identified by an opposing party, the party intending to conduct the cross-examination must estimate, with as much precision as possible, the amount of time the party anticipates it will need to cross-examine the witness.*

**b. Expert Witness Reports.** *Each party shall provide the expert's report for any expert witness the party intends to offer at trial.*

**4. Privilege Log.**<sup>1</sup> *The privilege log shall specify, with as much precision as possible, the exact nature of each item for which privilege is sought to be invoked and the type of privilege being asserted. In addition, Defendant Johnson shall provide to the Court, for in camera review, six (6) catalogued, well-organized, tabulated binders containing a copy of each item for which she is asserting privilege by ten (10) days from the date of this Order.*

**5. Trial Proceedings.**

- a. Opening and Closing Statements.** *Each party shall estimate, with as much specificity as possible, the amount of time the party anticipates it will need to present its opening and closing statements.*
- b. District-Specific Evidence.** *The parties shall explain, with as much specificity as possible, the nature and character of the evidence they intend to present for each*

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<sup>1</sup> At the Final Pretrial Conference, Johnson's counsel stated that Johnson did not prepare the privilege log, and that the privilege log was created by Jeff Timmer, a non-party to these proceedings. If this is the case, in order to avail herself of the privilege log at trial, Johnson must adopt the privilege log that Timmer created. If Johnson is adopting the privilege log prepared by Timmer, then she must comply with the instructions above if she wishes to rely on Timmer's assertions of privilege.

*challenged district, and how much time they anticipate they will require to present evidence regarding each district for which they intend to present evidence.*

**c. Simulated and/or Alternative Maps.** *The parties shall explain, with as much specificity as possible, whether and, if so, how they intend to present evidence regarding simulated and/or alternative maps, including the number of simulated and/or alternative maps about which they intend to present evidence and how much time they anticipate they will require to present evidence regarding each simulated and/or alternative map.*

**d. Daubert Objections.** *The parties shall specify and describe, with particularity, any Daubert objections, and responses to any Daubert objections, that they can reasonably foresee at the present time.*

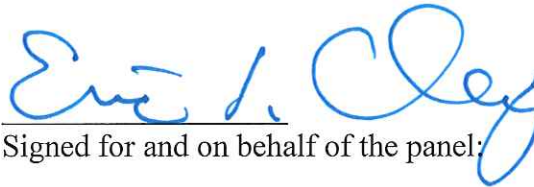
**6. Additional Pretrial Motions.** *If a party anticipates filing any additional pretrial motion(s), the party shall explain the nature of said motion(s) with as much specificity as possible and file said motion(s) no later than seven (7) days from the date of entry of this Order. Parties shall have five (5) days from the date of service to respond to motions. Motions and supporting briefs shall not exceed fifteen (15) pages in total; responses to motions and supporting briefs shall not exceed ten (10) pages in total.*

**7. Trial Proceedings.** *The Court will allocate 17 days of trial, inclusive of all parties. The parties shall divide the time among themselves and inform the Court of the division of time prior to the commencement of trial. If the parties are unable to agree upon the division of time, the Court will make the determination. All trial briefs are due seven (7) days prior to the trial date. Proposed findings of fact and conclusions of law are due seven (7) days after the last day of trial. Trial briefs shall not exceed twenty-five (25) pages per party in size 12 font.*

8. **Additional Efforts to Narrow the Scope of the Issues for Trial.** *The parties are encouraged to make additional efforts to narrow the scope of the issues for trial. The Court strongly encourages the parties to discuss stipulating to the introduction and admissibility of evidence. The parties shall apprise the Court of the status of any such efforts in the Supplemental Proposed Order and include a list of additional stipulations.*

**FURTHERMORE, it is HEREBY ORDERED** that the parties shall file a Supplemental Proposed Order that complies with the instructions contained in this Order within **ten (10) days** of the date of this Order.

IT IS SO ORDERED.



Signed for and on behalf of the panel:

HONORABLE ERIC L. CLAY  
United States Circuit Judge

HONORABLE DENISE PAGE HOOD  
United States District Judge

HONORABLE GORDON J. QUIST  
United States District Judge

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 14, 2018, by electronic and/or ordinary mail.

S/Diane R. Marion  
Administrative Manager