

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., *et al.*,

Plaintiffs,

v.

LAUREL M. LEE, in her official
capacity as Secretary of State of Florida,
et al.,

Defendants,

and

NATIONAL REPUBLICAN
SENATORIAL COMMITTEE, *et al.*,

Intervenor-Defendants,

Case No. 4:21-cv-00186-MW-MAF

4:21-cv-00187-MW-MAF

**RESPONSE IN OPPOSITION TO MOTION FOR LEAVE
TO TAKE 30(b)(6) DEPOSITION OF NON-PARTY HERITAGE
ACTION FOR AMERICA AFTER THE CLOSE OF FACT DISCOVERY,
AND INCORPORATED MEMORANDUM OF LAW**

Defendant Laurel M. Lee, in her capacity as the Florida Secretary of State, submits this response in opposition to Plaintiffs' October 22, 2021 motion in Case No. 4:21-cv-187 for leave to take the 30(b)(6) deposition of non-party Heritage Action for America ("Heritage Action") after the October 22 close of fact discovery deadline.¹

¹ As this Court indicated in its June 17, 2021 Order, "discovery motions . . . should be filed only in the parent case," Case No. 4:21-cv-00186. ECF No. 92 at 2. However,

As this Court explained to the parties in its July 23, 2021 Scheduling and Mediation Order, because of the “upcoming election year,” “this Court will not liberally grant extensions of deadlines absent compelling good cause. Instead, this Court will hold the parties to their deadlines for the expeditious resolution of these cases.” ECF No. 165, at 1 n.1.

It is precisely because of the “upcoming election year” that Secretary Lee likewise seeks expeditious resolution of these cases and opposes Plaintiffs’ motion for leave to take the 30(b)(6) deposition of Heritage Action. Because extending the time to complete discovery threatens to delay both the dispositive motions deadline and the date currently set for trial, this Court should deny Plaintiffs’ motion.

As an initial matter, Plaintiffs’ need to request leave for an extension here is a predicament of their own making. Plaintiffs were instructed in this Court’s May 18, 2021 Initial Scheduling Order that they “must begin discovery *immediately*.” ECF No. 22 at 1 (emphasis added). Despite this clear direction, Plaintiffs waited until October 6, 2021, to serve a 30(b)(6) deposition subpoena on Heritage Action. *See* ECF No. 260 at 3. Because it took Plaintiffs over four months after the Initial Scheduling Order to serve the deposition subpoena on Heritage Action, just 16 days before the close of discovery, Plaintiffs’ argument that “Heritage Action’s lack of cooperation” caused

“Plaintiffs filed their motion in Case No. 4:21-cv-187,” and “should have filed their motion in Case No. 4:21-cv-186.” *See* Case No. 4:21-cv-00186 (ECF No. 291 at 2 n.1). To be cautious, the Secretary is filing this response here in Case No. 4:21-cv-186, and will also file a notice of this response in Case No. 4:21-cv-187.

their failure to complete taking discovery before the October 22 deadline, *id.* at 5, falls short. In addition, it was Plaintiffs who earlier sought compliance with their third-party subpoena for documents in the Southern District of Florida and therefore had to file a motion to compel before that court otherwise unfamiliar with these proceedings. *See* ECF No. 234 at 3.

Plaintiffs also assert in their motion that they merely request a “modest discovery extension” for taking this deposition. *See* ECF No. 260 at 5. The practical effect of allowing this deposition to go forward, however, would amount to more than a modest extension of time; the subsequent postponement of deadlines might stretch into the distant future if Heritage Action chooses to exhaust its appellate rights. *See U.S. Court of Appeals—Median Time Intervals in Months for Civil and Criminal Appeals Terminated on the Merits, by Circuit, During the 12-Month Period Ending September 30, 2020*, U.S. Cts., https://www.uscourts.gov/sites/default/files/data_tables/jb_b4a_0930.2020.pdf (last visited October 27, 2021).

The Secretary opposes any further extension of the discovery period because she maintains that this case should proceed as expeditiously as possible. The Secretary remains concerned about the effects that delaying the disposition of this matter will have on the administration of forthcoming elections and the voters where voter education concerning (and voter confidence in) any changes to the Election Code are

paramount.

As such, this Court should deny the motion.

Dated: October 29, 2021

Respectfully submitted:

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 7.1(F) of the Local Rules of the Northern District of Florida, I certify that the foregoing reply memorandum contains 631 words.

/s/ Mohammad O. Jazil

CERTIFICATE OF SERVICE

I certify that on October 29, 2021, I caused to be served a copy of the foregoing by CM/ECF to all counsel of record.

/s/ Mohammad O. Jazil

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