

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAN MCCONCHIE, in his official capacity as Minority Leader of the Illinois Senate and individually as a registered voter, JIM DURKIN, in his official capacity as Minority Leader of the Illinois House of Representatives and individually as a registered voter, JAMES RIVERA, ANNA DE LA TORRE, DOLORES DIAZ, FELIPE LUNA JR., SALVADOR TREMILLO, CHRISTOPHER ROMERO, the REPUBLICAN CAUCUS OF THE ILLINOIS SENATE, the REPUBLICAN CAUCUS OF THE ILLINOIS HOUSE OF REPRESENTATIVES, and the ILLINOIS REPUBLICAN PARTY,

Plaintiffs,

vs.

IAN K. LINNABARY, CASANDRA B. WATSON, WILLIAM J. CADIGAN, LAURA K. DONAHUE, CATHERINE S. MCCRORY, WILLIAM M. MCGUFFAGE, and RICK S. TERVEN, SR., in their official capacities as members of the Illinois State Board of Elections, EMANUEL CHRISTOPHER WELCH, in his official capacity as Speaker of the Illinois House of Representatives, the OFFICE OF SPEAKER OF THE ILLINOIS HOUSE OF REPRESENTATIVES, DON HARMON, in his official capacity as President of the Illinois Senate, and the OFFICE OF THE PRESIDENT OF THE ILLINOIS SENATE,

Defendants.

Case No. 1:21-cv-03091

Circuit Judge Michael B. Brennan
Chief District Judge Jon E. DeGuilio
District Judge Robert M. Dow, Jr.

Three-Judge Court
Pursuant to 28 U.S.C. § 2284(a)

**PLAINTIFFS' REPLY NOTICE
REGARDING REMEDIAL HEARING**

Plaintiffs in the above-captioned matter (the "*McConchie* Plaintiffs") submit this notice in advance of the December 3, 2021 status hearing in order to reply to the response filed by the Legislative Defendants [Dkt. No. 164] regarding Plaintiffs' prior joint notice [Dkt. No. 159].

The response continues an unfortunate pattern by the Legislative Defendants of relying on misdirection and misrepresentation. The Legislative Defendants falsely accuse the *McConchie* Plaintiffs of inappropriately raising new issues and materials through the expert rebuttal reports filed with their reply brief on December 1, 2021 [Dkt. No. 162]. This is blatantly false. The expert reports of Dr. Chen, Dr. Fowler, and Dr. Gallagher merely address and respond to the arguments and analysis in the report of Dr. Allan Lichtman [Dkt. No. 156-1], the Legislative Defendants' expert. Such responses are perfectly appropriate, and indeed prototypical, of an expert rebuttal report. Accordingly, there is no basis to allow the Legislative Defendants to submit sur-replies or otherwise further respond. *See, e.g., Belcastro v. United Airlines*, No. 17-C-1682, 2019 WL 1651709, at *14 (N.D. Ill. Apr. 17, 2019) (sur-replies are “disfavor[ed]” and should be denied “when the movant has had the opportunity to thoroughly brief the issues”).

Now that the parties have had ample opportunity to brief the issues in the case, the Court can decide the case based on the parties' thorough and lengthy submissions. To the extent the Court has additional questions or requires clarification regarding specific issues, it can direct the parties to submit concise and targeted supplemental briefing on such issues. The parties are currently conducting depositions of the experts and will be able to append excerpts of the expert depositions to any such supplement briefing.¹

¹ In the alternative, if the Court believes that oral argument would be helpful, expert deposition transcripts can be offered into evidence as part of such arguments, rather than requiring additional live testimony from the experts.

Dated: December 2, 2021

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Respectfully submitted,

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