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CLERK OF THE SHAWNEE COUNTY DISTRICT COURT

CASE NUMBER: 2021-CV-000299

PII COMPLIANT



Court: Shawnee County District Court
Case Number: 2021-CV-000299
Case Title: League of Women Voters of Kansas, et al. vs. Scott Schwab - Kansas Secretary of State, et al.
Type: ORD: Order Originated by Judge ORDER REGARDING PENDING MOTIONS

SO ORDERED,

A handwritten signature in black ink, appearing to read "T. Watson", is written over a horizontal line.

/s/ Honorable Teresa L. Watson, District Court Judge

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION THREE**

LEAGUE OF WOMEN VOTERS
OF KANSAS, et al.,

Plaintiffs

2021-CV-299

SCOTT SCHWAB, KANSAS
SECRETARY OF STATE, et al.,

Defendants

ORDER REGARDING PENDING MOTIONS

This matter is before the Court on the following pending motions:

1. Defendants' motion for summary judgment on all claims.
2. Plaintiffs' motion for summary judgment on all claims.
3. Defendants' motions to exclude Plaintiffs' expert witnesses Dr. Linton A. Mohammed, Ph.D., and Dr. Kenneth R. Mayer, Ph.D.
4. Plaintiffs' motion to strike or exclude the statements of Defendants' witnesses Bryan Caskey, Andrew Howell, and Connie Schmidt.

After careful consideration of the voluminous briefing of these motions, the Court makes the following orders.

THE MOTIONS FOR SUMMARY JUDGMENT.

The parties in this case filed a joint statement of stipulated facts. There were 117 stipulated facts. Defendants filed a motion for summary judgment including 80 statements of fact. Many, but not all, of these facts were taken from the stipulated facts. Plaintiffs filed a motion for summary

judgment including 479 statements of fact. In Defendants' response to Plaintiffs' motion for summary judgment, Defendants offered 29 additional statements of fact.

Given the multiple hundreds of the statements of fact set forth by the parties, it is no surprise that a great many of them were controverted, and some of those controverted were material to the issues to be decided by the Court. Though both sides asserted at the pretrial conference that this Court could and should decide the case without a trial based only on the facts and arguments asserted in the briefing, it is clear after a thorough review that this is not possible.

"The mere filing of cross-motions for summary judgment does not obligate a trial court to enter summary judgment. Rather, the trial court must independently determine whether a genuine issue of material fact exists." *Wheeler v. Rolling Door Co.*, 33 Kan. App. 2d 787, 791, 109 P.3d 1255 (2005). "Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Zaragoza v. Bd. of Johnson Cnty. Commissioners*, 320 Kan. 691, 697, 571 P.3d 545 (2025) (quotations and citations omitted).

Considering Plaintiffs' and Defendants' motions for summary judgment, it is clear that genuine issues of material fact remain in the determination of whether the signature verification requirement ("SVR") meets the Kansas Supreme Court's stated standards for evaluating its constitutionality. For this reason, Plaintiffs' motion and Defendants' motion for summary judgment are denied.

DEFENDANTS' MOTION TO EXCLUDE PLAINTIFFS' EXPERT WITNESSES.

Defendants filed motions to exclude the opinions and testimony of Plaintiffs' two experts, Dr. Mohammed, a forensic document examiner, and Dr. Mayer, a political scientist. Defendants do not attack the notion that these witnesses are experts in their fields. The gist of Defendants' argument is that their expert opinions - given that this is a facial attack and given the Kansas Supreme Court's stated standard for evaluating the constitutionality of the SVR - should be excluded because they are irrelevant and not helpful to the trier of fact. In addition, Defendants attack the reliability of Dr. Mayer's opinions given errors he made in his initial calculation of certain statistics relevant to his opinions. Plaintiffs insist that his opinions, or at least portions thereof, remain valid.

After reviewing the expert reports and the parties' briefing on the motions, the Court denies Defendants' motion to exclude the expert reports and testimony. Defendants raise arguments in their motions that may have some bearing on the weight or credibility to be given to the expert opinions, but the Court declines to exclude them in their entirety and will allow them to be presented at trial.

PLAINTIFFS' MOTION TO STRIKE OR EXCLUDE THE STATEMENTS OF DEFENDANTS' WITNESSES.

Plaintiffs filed motions to strike or exclude the statements of Defendants' lay witnesses Bryan Caskey, Andrew Howell, and Connie Schmidt made in affidavits supporting or responding to the parties' cross-motions for summary judgment. Plaintiffs' objections to the statements of all three are similar. Plaintiffs assert that contested portions of the affidavits of each witness contain statements that: 1) are not based on the individual's personal knowledge of the subject, and in some cases, are hearsay; or 2) rise to the level of undisclosed expert opinions. Plaintiffs seek to

strike the affidavit of Schmidt on the additional basis that Defendants did not timely disclose her as a witness. Defendants point out that Schmidt did not begin employment as the Johnson County election commissioner until after the parties filed opening summary judgment briefs in the instant case.

These motions to strike are moot given the Court's denial of Plaintiffs' and Defendants' motions for summary judgment. Any objections to specific portions of the testimony of these three witnesses can be made at trial. The Court denies Plaintiffs' motion to exclude Schmidt's affidavit or to exclude Schmidt as a witness. Per Plaintiffs' request, the Court grants Plaintiffs leave to depose Schmidt prior to trial if Plaintiffs wish to do so.

CONCLUSION

The parties are reminded of the trial date and remaining pretrial deadlines set forth in the pretrial order filed April 29, 2026. Any motion, response, or reply filed between now and the first day of trial must be limited to a total of 25 pages or less, not including exhibits, except for good cause shown upon written motion and with leave of this Court. Incorporating other briefed material by reference in such motions is prohibited.

This order is effective on the date and time shown on the electronic file stamp.

IT IS SO ORDERED.

**HON. TERESA L. WATSON
DISTRICT COURT JUDGE**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above document was filed electronically providing notice to counsel of record.

/s Angela Cox
Administrative Assistant

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