

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

NORTH CAROLINA STATE
CONFERENCE OF THE NAACP, *et*
al.,

Plaintiffs,

v.

ALAN HIRSCH, in his official capacity
as Chair of the North Carolina State
Board of Elections, *et al.*,

Defendants.

No. 1:18-cv-01034

PLAINTIFFS' MOTION TO SET A TRIAL DATE

Plaintiffs, the North Carolina State Conference of the NAACP, et al., by and through undersigned counsel, respectfully request under Federal Rules of Civil Procedure 16 and 40 and Local Rule 40.1 that the Court set a trial date and other related scheduling dates, culminating in a trial commencing the week of February 5, 2024.

Plaintiffs have met and conferred with Defendants regarding this motion. The State Board Defendants and Legislator Intervenor-Defendants oppose this relief. The State Board Defendants "believe that any decision on the trial date should be left to the sound discretion of the Court." The Legislator Intervenor-Defendants object to setting a trial date until Plaintiffs' Objection to the Magistrate's September 12, 2023 Order (ECF No. 211) is resolved.

BACKGROUND

This case involves a challenge to North Carolina's 2018 Voter ID Law, S.B. 824, under Section 2 of the Voting Rights Act, 42 U.S.C. § 1983, and the United States Constitution. Plaintiffs assert that the Voter ID Law was enacted with racially

discriminatory intent and impermissibly deprives Black and Latino voters their fundamental right to vote. Although implementation of S.B. 824 was delayed pursuant to injunctions issued by this Court and the North Carolina state courts, those injunctions have now been vacated and the law is currently in effect for elections in North Carolina. Setting a trial date in early 2024 will allow the Court to issue a decision on this matter well before the 2024 general election, clarifying the requirements for voting sufficiently in advance to allow for voter education, as well as the preparation of election materials and training of election workers.

This matter has been previously set for trial twice before – to commence on January 4, 2021 and for January 24, 2022 – both of which were delayed due to the pendency of interlocutory appeals. ECF No. 130, 158, 173. For the January 2022 trial date, the parties were four weeks away from start of trial when, at the Defendants’ request, the Court entered a stay of all proceedings on December 30, 2021. ECF No. 194. Fact discovery in this case closed on May 15, 2020, and the deadline to file dispositive motions expired on July 1, 2020.

Upon vacating of the state court injunctions, Plaintiffs requested this court lift its stay. ECF No. 202. The stay was formally lifted on July 26, 2023.

In order to vindicate the important civil rights that are the subject of this lawsuit, as well as to ensure that the rules are clear heading into the 2024 general election, Plaintiffs are requesting a trial date at the earliest possible time permitted under Local Rule 40.1(a).

Accordingly, consistent with Local Rule 40.1 and this Court’s Policies and Procedures, Plaintiffs propose the following schedule:

DATE	EVENT/DEADLINE
December 15, 2023	Parties to Exchange Rule 26(a)(3) Disclosures
December 22, 2023	Parties to Submit Rule 26(a)(3) Disclosures and Objections to Court
January 15, 2024	In Limine Motions Due
January 15, 2024	Trial Briefs Due
January 22, 2024	In Limine Responses Due
Week of January 22, 2024	Final Pre-Trial Conference
Week of February 5, 2024	Trial to Commence
Two weeks after completion of trial	Proposed Findings of Fact and Conclusions of Law

Plaintiffs believe that this schedule, which provides that there will be four months until trial, will allow the State Board Defendants to complete their agreed supplementation of discovery, as well as any additional materials required to be produced upon resolution of the Objection (ECF 211) well in advance of the trial date. Given the parties' previous estimates for length of trial, trial will also be complete substantially in advance of the March 5, 2023 primary election.

CONCLUSION

For the foregoing reasons, the Court should enter an order setting this matter for trial and scheduling related deadlines.

Respectfully Submitted this 12th day of October 2023

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CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing Motion to Set a Trial Date with the Clerk of Court using the CM/ECF system which will send notification of such to all counsel of record in this matter.

This, the 12th day of October 2023.

/s/ Jeremy C. Karpatkin
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CERTIFICATE OF WORD COUNT

The undersigned counsel hereby certifies that pursuant to Local Rules 7.3(d) and 72.4, the foregoing has a word count of less than 6,250 words not including the caption, signature block and certification of word count. This document was prepared in Microsoft Word, from which the word count is generated.

Dated this 12th day of October 2023.

/s/ Jeremy C. Karpatkin
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