

**IN THE  
SUPREME COURT OF OHIO**

BRIA BENNETT, *et al.*,

Relators,

v.

OHIO REDISTRICTING COMMISSION, *et al.*,

Respondents.

Case No. 2021-1198

**RESPONDENT THE OHIO REDISTRICTING COMMISSION'S MEMORANDUM IN  
RESPONSE TO RELATORS' MOTION FOR SCHEDULING ORDER**

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**MEMORANDUM IN OPPOSITION TO RELATORS’ MOTION FOR SCHEDULING ORDER**

The proposed schedule in Relators’ Motion for Scheduling Order (the “Motion”) is unnecessarily accelerated and needlessly complicated. The Ohio Redistricting Commission (the “Commission”) respectfully requests that the Court deny Relators’ Motion and instead order Respondents to respond to Relator’s Complaint in this matter by October 11, 2021. Further, discovery in this matter should be stayed to allow the Court to first consider threshold legal issues pertaining to Relators’ Complaint, which the Commission anticipates raising in its response to the Complaint. At the very least, fact discovery should be stayed even if expert discovery is allowed to continue concurrently with consideration of Respondents’ response to the Complaint.

Alternatively, if the Court is inclined to allow discovery to go forward in this matter immediately, the Commission requests that the Court enter the following alternative scheduling order:

<b>Deadline</b>	<b>Description</b>
October 11, 2021	Respondents’ responses to complaint
November 1, 2021	All Parties’ expert disclosures
November 19, 2021	All Parties’ submission of evidence
November 29, 2021	Relators’ merit brief
December 9, 2021	Respondents’ merit briefs
December 14, 2021	Relators’ reply brief

This alternative proposed schedule allows for sufficiently prompt resolution of the matter. Relators have served extensive discovery on all members of the Commission, requiring a

deadline later than October 8, 2021, to fully respond. Additional time beyond October 15, 2021, is also necessary for Respondents' expert disclosures. Moreover, it is not necessary for the parties to engage in a three-step expert disclosure process. Instead, all expert disclosures should be served on November 1, 2021. Depositions of experts can occur thereafter before the submission of evidence to this Court. Further, given the necessity of additional time for each of these steps, additional time will be necessary to complete briefing. Finally, as is typical in original action cases, oral argument is not necessary in this matter. But even if the Court is inclined to hear oral argument, the Commission can be prepared to participate in oral argument within days of the filing of Relators' reply brief. Thus, under the Commission's proposed alternative schedule, the case can be decisional by mid-December, in advance of the February 2, 2022 filing deadline for candidates.

Beyond this, Relators' proposed schedule is unnecessarily detailed. Typically, in an original action, this Court sets deadlines for a response to the complaint, submission of evidence, Relators' merit brief, Respondents' merit brief, and Relators reply brief. Indeed, in *Wilson v. Kasich*, 134 Ohio St.3d 221, 2012-Ohio-5367, the case regarding Ohio's prior apportionment, this Court did not set any deadlines beyond these few. See *Wilson v. Kasich*, Case No. 2012-0019, January 5, 2012 Entry, available at [https://www.supremecourt.ohio.gov/pdf\\_viewer/pdf\\_viewer.aspx?pdf=190157.pdf](https://www.supremecourt.ohio.gov/pdf_viewer/pdf_viewer.aspx?pdf=190157.pdf). Likewise, here, is it not necessary for the Court to set forth numerous additional discovery deadlines. Counsel for the parties are capable of working together to ensure that discovery is complete in advance of submission of evidence to this Court. Indeed, as Relators suggest, to the extent unresolvable discovery disputes arise as this case proceeds, a Master Commissioner could be appointed to resolve those disputes in a timely fashion to keep the case on schedule. Finally, there is no need for separate briefing regarding

evidentiary objections, motions in limine, or Daubert motions. To the extent such motions are necessary, the parties can include these arguments in their merit briefing, and the Court can consider such arguments as part of its consideration of the case in whole.

**CONCLUSION**

For the reasons set forth above, Respondent the Ohio Redistricting Commission respectfully requests that the Court deny Relators' Motion for Scheduling Order, set a deadline of October 11, 2021, for responses to the Complaint, and stay discovery—or at least fact discovery—pending the Court's consideration of those responses. Alternatively, the Commission requests that the Court reject Relators' proposed schedule and issue the alternative scheduling order set forth herein.

Dated: September 28, 2021

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 28, 2021, a copy of the foregoing was served by electronic mail upon the following:

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