

**IN THE
SUPREME COURT OF OHIO**

LEAGUE OF WOMEN VOTERS OF OHIO, *et al.*,

Relators,

v.

OHIO REDISTRICTING COMMISSION, *et al.*,

Respondents.

Case No. 2021-1193

Original Action Pursuant to Ohio
Const., Art. XI

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

Freda J. Levenson (0045916)
ACLU of Ohio Foundation, Inc.
4506 Chester Avenue
Cleveland, Ohio 44103
Tel: 614-586-1972 x 125
flevenson@acluohio.org

David J. Carey (0088787)
ACLU of Ohio Foundation, Inc.
1108 City Park Avenue, Suite 203
Columbus, OH 43206
(614) 586-1972 x2004
dcarey@acluohio.org

Alora Thomas*
Kelsey Miller*
American Civil Liberties Union
125 Broad Street
New York, NY 10004
(212) 519-7866
athomas@aclu.org

Robert D. Fram*
Donald Brown*
Joshua González*
Juliana Goldrosen* (PHV 25193 - 2021)
Salesforce Tower
415 Mission Street, Suite 5400

Erik J. Clark (0078732)
Ashley Merino (0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, Ohio 43215
614.481.0900
614.481.0904 (facsimile)
ejclark@organlegal.com
amerino@organlegal.com

Special Counsel to Attorney General Dave
Yost

*Counsel for Respondent The Ohio
Redistricting Commission*

San Francisco, CA 94105-2533
(415) 591 6000
rfram@cov.com

James Smith*
Megan C. Keenan*
L. Brady Bender (PHV 25192 - 2021)
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
(202) 662-6000
mkeenan@cov.com

Anupam Sharma*
James Hovard*
Yale Fu*
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306-2112
(650) 632-4700
asharma@cov.com

Madison Arent*
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
(212) 841 1000
marent@cov.com

Counsel for Relators
** Pro Hac Vice Motion Forthcoming*

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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:

Deadline	Description
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. 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

Respectfully submitted,

/s Erik J. Clark

Erik J. Clark (0078732)
Ashley Merino (0096853)
ORGAN LAW LLP
1330 Dublin Road
Columbus, Ohio 43215
614.481.0900
614.481.0904 (facsimile)
ejclark@organlegal.com
amerino@organlegal.com

Special Counsel to Attorney General Dave
Yost

*Counsel for Respondent The Ohio
Redistricting Commission*

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:

Robert D. Fram
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105-2533
(415) 591 6000
rfram@cov.com

Megan C. Keenan
850 Tenth Street, NW
Washington, DC 20001-4956
(202) 662-6000
mkeenan@cov.com

Anupam Sharma
3000 El Camino Real
5 Palo Alto Square, 10th Floor
Palo Alto, CA 94306-2112
(650) 632-4700
asharma@cov.com

Madison Arent
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
(212) 841 1000
marent@cov.com

Freda J. Levenson
ACLU of Ohio Foundation, Inc.
4506 Chester Avenue
Cleveland, Ohio 44103
Tel: 614-586-1972 x 125
flevenson@acluohio.org

David J. Carey
ACLU of Ohio Foundation, Inc.
1108 City Park Avenue, Suite 203
Columbus, OH 43206
(614) 586-1972 x2004
dcarey@acluohio.org

Alora Thomas
American Civil Liberties Union
125 Broad Street
New York, NY 10004
(212) 519-7866
athomas@aclu.org

Counsel for Relators

/s Erik J. Clark
*One of the Attorneys for Respondent The
Ohio Redistricting Commission*