

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LEAGUE OF WOMEN VOTERS OF)
WISCONSIN,)

Plaintiff,)

v.)

DEAN KNUDSON, JULIE M. GLANCEY,)
ROBERT F. SPINDELL, JR., MARK L.)
THOMSEN, ANN S. JACOBS, MARGE)
BOSTELMANN, in their official capacity)
as members of the Wisconsin Elections)
Commission, MEAGAN WOLFE, in her)
official capacity as the Administrator of the)
Wisconsin Elections Commission,)

Defendants.)

No. 21-cv-805-jdp

JOINT PRELIMINARY PRETRIAL REPORT

The Court is scheduled to conduct a telephone scheduling conference on **April 5, 2022, at 2:00 p.m.** Pursuant to the Court's Standing Order Governing Preliminary Pretrial Conference, the parties in the above-captioned matter have conferred to discuss the proposed discovery plan in this case and jointly submit the following Fed. R. Civ. P. 26(f) Joint Report:

1. Nature of the Case

This is an action brought pursuant to 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution. Plaintiff, League of Women Voters of Wisconsin (the "League"), brought suit alleging that the defendants, the members and Administrator of the Wisconsin Elections Commission ("WEC"), unlawfully deactivated the registrations of 31,854 registered Wisconsin electors without notice. The League seeks reactivation of those electors, as well as reasonable attorneys' fees and costs.

Defendants dispute certain of the allegations in the Complaint, specifically object to the League's request for attorneys' fees and costs, and raise certain affirmative defenses including the following:

1. The Complaint fails to state a claim upon which relief can be granted.
2. Defendants acted in good faith in evaluating the data provided in the 2019 ERIC list and properly exercised their statutory duties.
3. Plaintiff's claim may be moot, in whole or in part, as a result of actions of the Commission taken with respect to post-2019 ERIC lists.
4. Upon information and belief, Plaintiff lacks standing and/or capacity to sue.
5. Plaintiff's claims may be barred, in whole or in part, by the doctrine of qualified immunity.
6. Upon information and belief, Plaintiff's claims may be barred by the doctrines of laches, waiver, estoppel, and/or unclean hands.

2. Names of Any Related Cases

- *League of Women Voters of Wisconsin, et al. v. Knudson*, 19-cv-1029-jdp (W.D. Wis.)
- *State ex rel. Zignego v. Wisconsin Elections Comm'n*, No. 2019CV449 (Ozaukee Cty. Cir. Ct.) ("*Zignego I*").
- *State ex rel. Zignego v. Wis. Elections Comm'n*, 2020 WI App 17, 391 Wis. 2d 441, 941 N.W.2d 284 ("*Zignego II*"),
- *State ex rel. Zignego v. Wis. Elections Comm'n*, 2021 WI 32, 396 Wis. 2d 391, 957 N.W.2d 208 ("*Zignego III*").

3. Issues to be Resolved at Trial or on Summary Judgment.

See paragraph 1 above.

4. Discovery and Case Management Plan

- a. The parties stipulate and agree that the disclosure requirements of Rule 26(a)(1) will not apply in this case.
- b. Expert Disclosures: The parties do not anticipate the use of expert testimony or evidence. Should a party determine that the use of such testimony would assist the finder of fact, the parties propose the following schedule:
 - Expert disclosures pursuant to Rule 26(a)(2) shall be made by Plaintiff by August **1, 2022**.
 - Expert disclosures pursuant to Rule 26(a)(2) shall be made by Defendants by September **1, 2022**.
- c. Pretrial disclosures: Pretrial disclosure pursuant to Rule 26(a)(3) shall be made as required by the provisions of Rule 26(a)(3) and any deadlines set by the Court.
- d. Subjects on Which Discovery May Be Needed: The Plaintiff anticipates that little to no discovery on its claims or the Defendants' affirmative defenses will be needed. The Defendants assert that discovery may be required on their affirmative defenses.
- e. Completion of Discovery: Discovery shall be completed by two weeks before the deadline the Court sets for the parties' Rule 26(a)(3) submissions. The parties do not anticipate any need to conduct discovery in phases.
- f. Changes in Limitation on Discovery: The parties agree that discovery requests will be transmitted in a word-processing file format, via e-mail to the email addresses contained in the parties' pleadings and that failure to receive a bounce-back

message is good service. If it becomes apparent that additional changes are necessary, the parties anticipate that an agreement can be reached among counsel.

g. Issues Regarding Privilege or Work Product: The parties are not currently aware of, nor do they anticipate, any issues regarding privilege or attorney work product.

The parties agree that, if such issues arise, they will meet and confer prior to bringing any motions to compel and anticipate that an agreement can be reached among counsel.

h. Motions Contemplated: The parties anticipate that this case may be resolved on cross-motions for summary judgment with significant stipulations of fact or other dispositive motions. The Plaintiff requests a deadline for such motions be July 1, 2022. The Defendants request a deadline of September 1, 2022. Both parties request that the Court order the time for responding to dispositive motions be 30 days and the time for reply be 15 days.

i. Trial Date: The parties request that trial in this matter be scheduled in or near April 2023.

5. Issues Relating to Disclosure or Discovery of Electronically Stored Information: The parties propose that electronically stored information may be produced in .pdf files or in native files. For good cause shown, the Court may order that particular items of electronically stored information be produced in another format as used in the usual course of business, or in some other form. The parties do not anticipate such issues but if it becomes apparent that electronic discovery issues may exist, the parties anticipate that an agreement can be reached among counsel.

6. Additional Matters Affecting Scheduling

- a. Whether Parties Will Be Joined or Pleadings Will be Amended: The parties anticipate no further amendments to pleadings.
- b. Estimated Trial Length: The parties recommend that the Court consider any filed motions as this matter proceeds and that the parties incorporate the Court's determination in planning for any trial. If it becomes apparent that a trial is necessary, the parties anticipate that no more than five (5) days would be necessary.
- c. Electronic Service: The parties have agreed to receive service via e-mail, via e-mail to the email addresses contained on the parties' pleadings and that failure to receive a bounce-back message is effective service.

DATE: March 28, 2022

Respectfully submitted,
/s/ Jon Sherman

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