

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

SUSAN SOTO PALMER, et al.,  
  
Plaintiffs,  
  
v.  
  
STEVEN HOBBS, et al.,  
  
Defendants.  
  
JOSE TREVINO, et al.  
  
Intervenor-Defendants.

NO. 3:22-cv-05035-RSL  
  
SECRETARY HOBBS'S RESPONSE TO  
PLAINTIFFS' MOTION TO BIFURCATE  
AND TRANSFER, STRIKE, AND/OR  
DISMISS INTERVENORS'  
CROSSCLAIM

**I. INTRODUCTION**

Secretary Hobbs takes no position on the specific relief sought by Plaintiffs' motion. However, the Secretary has concerns regarding the potential impact of Intervenor's crossclaim on the timing of this litigation. The Secretary urges this Court to consider the impact on the timing of elections and the *Purcell* principle in ruling on Plaintiffs' motion.

**II. ARGUMENT**

With or without the addition of Intervenor's crossclaims, this litigation has the potential to affect Washington's elections process. If this Court were to invalidate the current redistricting maps, there would have to be ample time both for the adoption of new maps and also for state and local elections officials to implement those maps. As addressed in prior briefing, state and

1 local election officials typically need to have final maps in hand by late March in order to  
 2 implement the new districts for that year’s elections. *See* Dkt. 50 at 10-14. The current scheduling  
 3 order in this case sets trial for May 1, 2023. The next scheduled state legislative elections are not  
 4 until 2024.<sup>1</sup> Accordingly, the current schedule leaves sufficient time for a decision in this case  
 5 and any appropriate appellate review ahead of the next deadline of late-March 2024.

6 Secretary Hobbs welcomes Intervenor-Defendants’ representation that their cross-claim  
 7 “will require no alteration of the Court’s current Scheduling Order,” Dkt. 109 at 3, which  
 8 establishes January 1, 2023, as the deadline for completion of discovery, Dkt. 93 at 1. Still,  
 9 Plaintiffs’ motion highlights thorny jurisdictional issues presented by the crossclaims. Dkt. 105  
 10 at 3-6. Motions practice and interlocutory appeals related to those jurisdictional issues has the  
 11 potential to delay trial and implicate the *Purcell* principle that “federal courts ordinarily should  
 12 not alter state election laws in the period close to an election.” *Democratic Nat’l Comm. v. Wisc.*  
 13 *State Legislature*, 141 S. Ct. 28, 30-31 (2020) (Kavanaugh, J., concurring in denial of application  
 14 to vacate stay) (collecting cases).

15 If this Court denies Plaintiffs’ Motion to Bifurcate and Transfer, Strike, or Dismiss  
 16 Intervenor’s Crossclaim, it should strictly hold Intervenor-Defendants to their representation  
 17 that their crossclaim “will require no alteration of the Court’s current Scheduling Order.”  
 18 Dkt. 109 at 3.

### 19 III. CONCLUSION

20 In ruling on Plaintiffs’ motion, this Court should remain cognizant of the potential for  
 21 Intervenor-Defendants’ crossclaim to impact election deadlines. At first blush, Washington’s  
 22 2024 legislative elections appear distant. But considering that trial in this case will not occur  
 23 until mid-2023, the near-certainty of appellate review, and the early-2024 deadline for finalizing  
 24 maps, that distance is a mirage.

25 \_\_\_\_\_  
 26 <sup>1</sup> While there is the possibility of a special election in 2023, in the event of a vacancy in a legislative office,  
 there will be time enough to address that issue if its arises.

1 RESPECTFULLY SUBMITTED this 23rd day of November, 2022.

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**DECLARATION OF SERVICE**

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 23rd day of November 2022, at Olympia, Washington.

*s/ Leena Vanderwood*  
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