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May 16, 2022

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D. 202-968-4518

**VIA ECF**

The Honorable Judge Ronnie Abrams  
United States District Court  
Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

**Re: *DCCC v. Kosinski, et al.*, Civil Action No.: 22-cv-1029 (RA)**

Dear Judge Abrams:

Counsel for Plaintiff DCCC; Defendants Peter S. Kosinski, in his official capacity as Co-Chair of the State Board of Elections; Douglas A. Kellner, in his official capacity as Co-Chair of the State Board of Elections; Andrew J. Spano, in his official capacity as Commissioner of the State Board of Elections; Anthony J. Casale, in his official capacity as Commissioner of the State Board of Elections; Todd D. Valentine, in his official capacity as Co-Executive Director of the State Board of Elections; and Kristen Zebrowski Stavisky, in her official capacity as Co-Executive Director of the State Board of Elections (“State Defendants”); and Intervenor-Defendants Republican National Committee; National Republican Congressional Committee; and New York Republican State Committee (“Intervenor-Defendants”; collectively with State Defendants, “Defendants”; and collectively with State Defendants and Plaintiff DCCC, the “Parties”), in the above-referenced action jointly submit this letter pursuant to the Court’s instructions during the initial status conference held on May 13, 2022.

### **Preliminary Injunction Timeline**

Plaintiff DCCC will file its motion for a preliminary injunction on or before May 27, 2022, and the Parties have agreed that the briefing on Plaintiff’s motion should proceed according to the deadlines set forth in Local Civil Rule 6.1(a). Under that schedule, Defendants will file their response brief on or before June 10, and Plaintiff DCCC will file its reply brief on or before June 17. Subject to the Court’s availability, the Parties propose that a hearing on the motion be held during the week beginning June 27.

Defendants’ counsel has represented that, to the extent that relief consisted of certain instructions or directives to County Boards of Election that did not require extensive technical changes, such directives could be issued and implemented within thirty days.

Intervenors submit that Plaintiff’s requested relief will be barred by the *Purcell* principle, a crucial limitation on injunctive relief that this Court has an “independent obligation” to consider and apply. *League of Women Voters of Fla., Inc. v. Fla. Sec’y of State*, --- F.4th ----, 2022 WL 1435597, at \*2-3 & n.4 (11th Cir. 2022).

**Preliminary Discovery Timeline**

The parties have agreed that fact discovery should close on July 29 and expert discovery should close on August 12.

The parties have attached to this letter a proposed amended case management order that incorporates these dates.

Respectfully submitted,

<p><u>/s/ Aria C. Branch</u>                  Marc E. Elias*                  Aria Branch*                  Haley Costello Essig**                  Joshua L. Harris*                  Graham White*                  Spencer McCandless*                  Tyler L. Bishop*                  Daniela Lorenzo  <b>ELIAS LAW GROUP LLP</b>                  10 G Street NE, Suite 600                  Washington, DC 20002</p> <p>Andrew G. Celli, Jr.                  Nairuby L. Beckles  <b>EMERY CELLI BRINCKERHOFF                  ABADY WARD &amp; MAAZEL LLP</b>                  600 Fifth Avenue, 10th Floor                  New York, New York 10020</p> <p><i>Counsel for Plaintiff</i></p> <p>*Admitted Pro Hac Vice                  ** Pro Hac Vice Forthcoming</p>	<p><u>/s/ Seth J. Farber</u>                  Letitia James                  Attorney General for the State of New York</p> <p>Seth J. Farber                  Special Litigation Counsel                  28 Liberty Street                  New York, New York 10005</p> <p><i>Counsel for Defendants</i></p> <p><u>/s/ Jim McGlone</u>                  Paul DerOhannesian II (PD0523)  <b>DEROHANNESIAN &amp;                  DEROHANNESIAN</b>                  159 Wolf Road, Suite 305 Albany, NY 12207                  (518) 465-6420                  Fax: (518) 427-0614                  paul@derolaw.com</p> <p>James P. McGlone                  Tyler Green (pro hac vice forthcoming)                  Cameron T. Norris (pro hac vice forthcoming)                  James P. McGlone (pro hac vice)  <b>CONSOVOY MCCARTHY PLLC</b>                  1600 Wilson Blvd., Ste. 700</p>
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	<p>Arlington, VA 22201 (703) 243-9423 tyler@consovoymccarthy.com cam@consovoymccarthy.com jim@consovoymccarthy.com</p> <p><i>Counsel for Intervenor-Defendants</i></p>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DCCC :  
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Plaintiff(s), :  
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No.1:22-cv-01029  
:  
-v- :  
:  
:  
PETER S. KOSINSKI, in his official capacity as Co- :  
Chair of the State Board of Elections; DOUGLAS A. :  
KELLNER, in his official capacity as Co-Chair of the :  
State Board of Elections; ANDREW J. SPANO, in his :  
official capacity as Commissioner of the State Board :  
of Elections; ANTHONY J. CASALE, in his official :  
capacity as Commissioner of the State Board of :  
Elections; TODD D. VALENTINE, in his official :  
capacity as Co-Executive Director of the State Board :  
of Elections; and KRISTEN ZEBROWSKI- :  
STAVISKY, in her official capacity as Co-Executive :  
Director of the State Board of Elections, :  
:  
Defendant(s). :  
X  
.....

**CASE MANAGEMENT PLAN  
AND SCHEDULING ORDER**

RONNIE ABRAMS, United States District Judge:

Pursuant to Rules 16-26(f) of the Federal Rules of Civil Procedure, the Court hereby adopts the following Case Management Plan and Scheduling Order:

1. All parties do not consent to conducting all further proceedings before a United States Magistrate Judge, including motions and trial. 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. *[If all parties consent, the remainder of the Order need not be completed at this time.]*
2. The parties have not yet engaged in settlement discussions.
3. This case is not to be tried to a jury.
4. No additional parties may be joined after **May 27, 2022** without leave of the Court.
5. No amendments to the pleadings may be made after **May 27, 2022** without leave of the Court.

6. Initial disclosures pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure shall be completed no later than **May 27, 2022**. [*Absent exceptional circumstances, within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f).*]
7. All fact discovery should be completed no later than **July 29, 2022**. [*A period not to exceed 120 days unless the case presents unique complexities or other exceptional circumstances.*]
8. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided that the parties meet the deadline for completing fact discovery set forth in ¶ 7 above.
  - a. Initial requests for production of documents shall be served by **May 20, 2022**.
  - b. Interrogatories shall be served by **May 20, 2022**.
  - c. Depositions should be completed by **July 29, 2022**.
  - d. Requests to Admit shall be served no later than **June 29, 2022**.
9. All expert discovery, including disclosures, reports, production of underlying documents, and depositions shall be completed by **August 12, 2022**. [The parties shall be prepared to describe their contemplated expert discovery and the bases for their proposed deadlines at the initial conference.]
10. All fact discovery is completed no later than **July 29, 2022**.
11. The Court will conduct a post-discovery conference on \_\_\_\_\_ at \_\_\_\_\_. [To be completed by the Court.] No later than one week in advance of the conference, the parties are to submit a joint letter updating the Court on the status of the case, including but not limited to whether either party intends to file a dispositive motion and what efforts the parties have made to settle the action.
12. Unless otherwise ordered by the Court, the joint pretrial order and additional submissions required by Rule 6 of the Court's Individual Rules and Practices shall be due thirty (30) days from the close of discovery, or if any dispositive motion is filed, thirty (30) days from the Court's decision on such motion. This case shall be trial ready sixty (60) days from the close of discovery or the Court's decision on any dispositive motion.
13. Counsel for the parties propose the following alternative dispute resolution mechanism for this case:
  - a.  Referral to a Magistrate Judge for settlement discussions.
  - b. \_\_\_\_\_ Referral to the Southern District's Mediation Program. [*Note that all employment discrimination cases, except cases brought under the Fair Labor*

*Standards Act of 1938, 29 U.S.C. § 201 et seq., are designated for automatic referral to the Court's Alternative Dispute Resolution program of mediation. Accordingly, counsel in such cases should select 13(b).]*

c. \_\_\_\_\_ Retention of a private mediator.

The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.

14. The parties have conferred and their present best estimate of the length of trial is **3- 5 days**.

SO ORDERED.

Dated:

\_\_\_\_\_  
New York, New York

\_\_\_\_\_  
Ronnie Abrams  
United States District Judge

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