

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

TURTLE MOUNTAIN BAND OF CHIPPEWA
INDIANS, et al.,

Plaintiffs,

v.

MICHAEL HOWE, in his official capacity as
Governor of the State of North Dakota, et al.,

Defendant.

Civil No. 3:22-cv-00022-PDW-ARS

PLAINTIFFS' MOTION TO EXPEDITE DISCOVERY APPEALS

Plaintiffs respectfully move to expedite the Court's consideration of third-party respondents' appeals of two separate discovery orders issued by the Magistrate Judge in this matter. *See* Dec. 22, 2022 Order, ECF 48; Appeal, ECF 49; *See* Feb. 10, 2023 Order, ECF 63; Appeal, ECF 64.¹ Time is of the essence in this case to ensure that, should Plaintiffs prevail at trial, a remedy is in place in time for the 2024 election. The June trial setting permits that, and it is important that the remaining discovery issues be resolved soon so discovery can complete in time for trial. Plaintiffs likewise respectfully request that, should this Court overrule Respondents' objections to the Magistrate Judge's Orders, the Court impose a prompt date-certain for compliance with the Magistrate Judge's Orders. This will ensure that (1) discovery is promptly

¹ The Magistrate Judge simultaneously denied a similar motion by Respondent Terry Jones in the related matter *Walen v. Burgum*. *See* Order, Case No. 1:22-cv-31-PDW-RRE-DLH, (D.N.D. Dec. 22, 2022), ECF 72. The briefing on that appeal has completed.

completed and (2) should Respondents attempt to seek a stay of this Court's Order from the Eighth Circuit,² that request is promptly resolved.

Plaintiffs have conferred with counsel for the Defendant and counsel for Respondents. Defendant and Respondents take no position on the motion.

March 3, 2023

Respectfully submitted,

/s/ Michael S. Carter

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² Such a request would not be well taken. *See, e.g., See Guillen v. LULAC*, 142 S. Ct. 2773 (2022) (Mem.) (denying request of stay of order requiring Texas legislators to be deposed in Texas redistricting case in light of claims of legislative privilege). But quick resolution of such a request is necessary to preclude further delay.

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CERTIFICATE OF SERVICE

I certify that the foregoing was served on all counsel of record via the Court's CM/ECF system.

/s/ Mark P. Gaber
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