

The Honorable J. Robert S. Lasnik

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

BENANCIO GARCIA, III,

Plaintiff,

v.

STEVEN HOBBS in his official capacity
as Secretary of State of Washington,

Defendant.

NO. 3:22-cv-05152-RSL

JOINT STATUS REPORT AND
DISCOVERY PLAN

The parties, by their undersigned counsel, held a conference pursuant to Rule 26(f) and this Court’s order (ECF No. 8) on April 19, 2022. The parties hereby jointly submit the following report consistent with Fed. R. Civ. P. 26(f), LCR 26(f), and this Court’s April 5, 2022 Order:

1. Nature and Complexity of Case

This case challenges the constitutionality of Washington State’s legislative district 15. Plaintiff alleges that the district violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution because race was the predominant factor motivating the Redistricting Commission’s decision to draw the line encompassing legislative district 15 and that such consideration of race does not satisfy strict scrutiny.

Defendant Hobbs takes no position on the merits of Plaintiff’s claims.

1 A preliminary procedural complexity concerns the identity of possible additional parties.
2 This Court's ruling on the pending joinder motion in *Palmer v. Hobbs*, No. 3:22-cv-05035-RSL,
3 will inform the parties' views on how this issue should be resolved.

4 **2. Proposed Deadline for Joining Additional Parties**

5 The parties jointly propose that any motions for joining additional parties be filed no
6 later than two weeks after the Court rules on the Secretary's pending joinder motion in *Palmer*
7 *v. Hobbs*. In the alternative, the parties request that the deadline for seeking leave to join
8 additional parties be a noting date of June 4, 2022.

9 **3. Do the Parties Consent to a Magistrate Judge?**

10 No.

11 **4. Related Cases**

12 *Palmer v. Hobbs*, No. 3:22-cv-05035-RSL, also challenges legislative district 15, but on
13 the basis that it violates the Voting Rights Act.

14 **5. Initial Disclosures**

15 Plaintiffs and Defendants timely served their initial disclosures under FRCP 26(a)(1) on
16 April 26, 2022.

17 **6. Recommended Changes to the Time or Form of Expert and Pretrial**
18 **Disclosures Under Fed. R. Civ. P. 26(a)(2)-(4)**

19 At this time, the parties do not recommend any changes to the time or form of expert and
20 pretrial disclosures under Fed. R. Civ. P. 26(a)(2)-(4).

21 **7. Subjects, Timing, and Potential Phasing of Discovery**

22 (i) Topics of Discovery

23 Plaintiff Garcia anticipates seeking discovery from the Redistricting Commission, its
24 members and staff, members and staff of the Washington State Legislature, and other third
25 parties involved in redistricting regarding the development of Legislative District 15.
26

1 Defendant Hobbs does not anticipate promulgating significant discovery. Discovery by
2 Defendant Hobbs may be related to specific remedies proposed by Plaintiffs.

3 (ii) Timing of Discovery

4 At this time, the parties do not anticipate any need to deviate from the timing of discovery
5 as set forth in the Federal Rules of Civil Procedure and the Local Civil Rules for the Western
6 District of Washington.

7 (iii) Phasing of Discovery

8 At this time, the parties do not anticipate a need to phase discovery.

9 (iv) Promotion of Expeditious and Inexpensive Resolution

10 To the extent feasible, the parties agree to exchange documents informally and welcome
11 presentation of discovery disputes to the Court by informal means.

12 **8. Agreements or Issues Related to Preservation**

13 Defendant Hobbs notes that, at this time, he is not yet the official custodian of records of
14 the Redistricting Commission. *See* Wash. Rev. Code § 44.05.110(1). The preservation of these
15 records is currently the responsibility of the Redistricting Commission, which is not a party to
16 this litigation at this time.

17 Defendant Hobbs further notes that there may be discoverable information in the custody
18 and control of county election officials. County election officials are independent of the Office
19 of the Secretary of State and are independently responsible for preservation of any potentially
20 discoverable information. County election officials are not currently parties to this litigation.

21 **9. Electronically Stored Information**

22 This case may involve ESI, such as expert analysis and data, map shapefiles, and other
23 materials in native format. If so, the parties will need to cooperate in arranging the exchange of
24 ESI. Third-party discovery of ESI may also be required. The parties agree to adopt this district's
25 Model Agreement Regarding Discovery of ESI.
26

1 **10. Existence of Unique or Extensive Claims of Privilege or Work Product**

2 The parties do not anticipate that this case will involve unique or extensive claims of
3 privilege or work product protection. Conceivably, there may be claims of legislative privilege
4 in response to third-party discovery. Any party withholding a document responsive to a
5 discovery request under a claim of privilege or other protection from disclosure will produce a
6 privilege log within the time frame established for discovery responses.

7 **11. Procedures for Inadvertent Disclosure of Privileged Information**

8 The parties agree that upon becoming aware of any inadvertent disclosure of privileged
9 information, the party aware of the inadvertent disclosure shall notify the other parties
10 immediately. Any parties in possession of inadvertently disclosed material subject to a claim of
11 privilege will immediately destroy any copies of the material. This does not prevent any party
12 from disputing a claim of privilege over any disclosed or undisclosed materials.

13 **12. Proposed Changes to Limitations on Discovery**

14 At this time, the parties do not propose any changes to limitations on discovery.

15 **13. Date Discovery Can Be Completed**

16 The parties propose a discovery cutoff no earlier than six weeks following service of
17 rebuttal expert reports. In the alternative, the parties propose October 17, 2022, as the completed
18 discovery deadline.

19 **14. Suggestions for Prompt and Efficient Resolution**

20 The parties do not have additional suggestions for prompt and efficient resolution of this
21 case.

22 **15. Intent to Participate in Alternative Dispute Resolution**

23 The parties do not currently intend to participate in an alternative dispute resolution
24 process.

25 **16. Month of Readiness for Trial**

26 The parties believe this case will be ready for trial in February 2023.

1 **17. Jury or Non-Jury**

2 This is a non-jury case.

3 **18. Number of Trial Days Required**

4 The parties anticipate 4-5 trial days would be sufficient.

5 **19. Date of Disclosure Statement by Nongovernmental Corporate Parties**

6 N/A

7 DATED this 3rd day of May, 2022.

8 ROBERT W. FERGUSON
9 *Attorney General*

10 *s/ Karl D. Smith*
11 KARL D. SMITH, WSBA 41988
12 LESLIE A. GRIFFITH, WSBA 47197
13 *Deputy Solicitors General*
14 1125 Washington Street SE
15 PO Box 40100
16 Olympia, WA 98504-0100
17 (360) 753-6200
18 Karl.Smith@atg.wa.gov
19 Leslie.Griffith@atg.wa.gov

20 *Attorneys for Defendant Steven Hobbs*

21 *s/ Andrew R. Stokesbary*
22 Andrew R. Stokesbary, WSBA 46097
23 STOKESBARY PLLC
24 1003 Main Street, Suite 5
25 Sumner, WA 98390
26 (206) 486-0795
27 dstokesbary@stokesbarypllc.com
28 *Attorney for Plaintiff Benancio Garcia III*