

UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, et al.,

Plaintiffs,

v.

KYLE ARDOIN, IN HIS OFFICIAL  
CAPACITY AS LOUISIANA  
SECRETARY OF STATE,

Defendant

Case No.: 3:22-CV-0021-SDD-RLB

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EDWARD GALMON, SR., et al.,  
Plaintiffs,

v.

KYLE ARDOIN, IN HIS OFFICIAL  
CAPACITY AS LOUISIANA  
SECRETARY OF STATE

Defendant

Case No.: 3:22-CV-00214-BAJ-RLB

**DEFENDANT-INTERVENOR STATE OF LOUISIANA’S  
MOTION FOR EXTENSION OF TIME OF  
DEADLINES FOR REMEDIAL PHASE**

Defendant-Intervenor the State of Louisiana, through Attorney General Jeff Landry, moves for an extension of time of deadlines set forth for the remedial phase in this Court’s order dated June 17, 2022. (Doc. 206.) The Plaintiffs oppose this motion.

The State of Louisiana respectfully requests that the deadlines be extended until such time as a response is received and a ruling is made by the United States Supreme Court as to the “Emergency Application for Administrative Stay, Stay

Pending Appeal, and Petition for Writ of Certiorari before Judgement,” filed with the Supreme Court on June 17, 2022, as it relates to this Court’s ruling on the preliminary injunction. Additionally, the State of Louisiana moves for sufficient time to conduct discovery allowed under the Federal Rules of Civil Procedure. The Court’s order is not clear on rebuttal reports, discovery, or how the State Defendants can oppose the Plaintiffs’ proposed remedy.

Respectfully submitted,

Jeff Landry  
Louisiana Attorney General

*/s/ Angelique Duhon Freel*  
Elizabeth B. Murrill (LSBA No. 20685)  
Solicitor General  
Shae McPhee’s (LSBA No. 38565)  
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**CERTIFICATE OF SERVICE**

I do hereby certify that, on this 20th day of June 2022, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ Angelique Dixon Freel  
*Angelique Dixon Freel*

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Case No.: 3:22-CV-00214-BAJ-RLB

**DEFENDANT-INTERVENOR STATE OF LOUISIANA'S  
MEMORANDUM IN SUPPORT OF MOTION FOR EXTENSION OF TIME  
OF DEADLINES FOR REMEDIAL PHASE**

The State of Louisiana, through Attorney General Jeff Landry, requests an extension of time for the deadlines set forth for the remedial phase in this Court's order dated June 17, 2022. Doc. 206.

On June 6, 2022, this Court issued a preliminary injunction order, which provided that:

The Court ORDERS the Louisiana Legislature to enact a remedial plan on before June 20, 2022. If the Legislature is unable to pass a remedial plan *by that date*, the Court will issue additional orders to enact a

remedial plan complaint with the laws and Constitution of the United States.

Doc. 173 at p. 2 (emphasis added).

While the Louisiana Legislature remained in session, on the afternoon of June 17, 2022, this Court issued an “additional order to enact a remedial plan,” outlining the Court’s procedure and timeline for adopting a remedial plan. Doc. 206. That Order provides that:

Proposed remedial maps and memoranda in support shall be filed on or before June 22, 2022. Plaintiffs and Defendants shall each make one joint filing. Memoranda in support of remedial map submittals shall be limited to thirty (30) pages.

The parties shall make disclosures required by Rule 26(a) of the Federal Rules of Civil Procedure on or before June 22, 2022.

Responses or oppositions, if any to the proposed remedial maps shall be limited to twenty (20) pages and filed on or before June 27, 2022. Plaintiffs and Defendants shall each make one joint filing in response or opposition to the opponents proposed remedial map.

An evidentiary hearing on the proposed maps shall be held on June 29, 2022, at 9:00 a.m. in Courtroom 3.

Doc. 206.

**I. State of Louisiana requests a continuance of remedial phase deadlines until the Supreme Court rules on the request for stay.**

Prior to the issuance of this Court’s remedial phase order and timeline, the State of Louisiana and the Secretary of State filed with the United States Supreme Court an “Emergency Application for Administrative Stay, Stay Pending Appeal, and Petition for Writ of Certiorari before Judgement,” as it relates to this Court’s preliminary injunction ruling and order dated June 6, 2022. Shortly after filing with

the Supreme Court, Justice Alito requested that Plaintiffs file a response to the application, which is due by 5:00 p.m. (EDT) on June 23, 2022. The State of Louisiana requests a continuance of the remedial phase deadlines and the remedial phase until such time as a response is received by the Supreme Court, and the Supreme Court rules on the stay application.

**II. The State of Louisiana requests a continuance of the remedial phase until such time as adequate discovery is complete and all defenses can be prepared instead of proceeding in haste.**

Additionally, the State of Louisiana has a right to conduct full discovery, and the remedial phase should be continued until adequate discovery is complete. The need for this discovery is even greater given the current procedural posture. There has not been a full trial on the merits or other opportunity to develop the record on any proposed remedial plans. *See Abrams v. Johnson*, 521 U.S. 74, 94–95 (1997) (noting “[T]he Court expects a much more expansive body of evidence to determine the effectiveness of proposed remedial plans following post-trial discovery.”). The request for discovery is consistent with the “liberal spirit” of the Federal Rules of Civil Procedure. *See Miller v. Sam Houston State Univ.*, 986 F.3d 880, 891 (5th Cir. 2021); *see* Fed. R. Civ. P. 26(b) (“Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case...”). “Blanket denials” of discovery requests that affect a party’s “substantial rights” and prevent them from fairly presenting their claims fail to adhere to this “liberal spirit.” *See Miller*, 986 F.3d at 892 (holding that the district

court's discovery restrictions, including the refusal to allow a party to depose witnesses, "suffocated any chance" for the party to "fairly present" their claims).

The State of Louisiana should be permitted to conduct full discovery in accordance with the Rules of Federal Procedure including interrogatories, requests for production, depositions of Plaintiffs' mapdrawers, and expert witnesses offered with Plaintiffs' proposed remedial plans, in order to build the record required before any plan is adopted or rejected. *See Jones*, 727 F.2d at 387.

The current order issued on Friday, June 17, 2022, a state holiday, effectively gives parties three business days to present a remedial plan and a 30-page memorandum on the issue. Then, it requires simultaneous submission of disclosures, then a response five days later. This is not adequate time.

Speaker Page Cortez testified that almost 4,000 precincts must be included in a Congressional plan. In order to examine the Plaintiffs' map there must be access to the software and shapefiles used by the map drawer. That process will take some time, and consultation with experts able to run that software. Then, it will be necessary to conduct discovery.

**III. The Court's order is unclear on rebuttal reports, discovery, or how the State Defendants can oppose the Plaintiffs' proposed remedy.**

The Court's Order (Doc. 206) provides a deadline by for parties to submit remedial maps and memoranda in support on June 22, 2022 with responses or oppositions due on or before June 27, 2022. It is impossible for the State of Louisiana to oppose maps and memoranda submitted by Plaintiffs until it sees the maps, deposes the map-drawer(s) and has an opportunity to have the maps reviewed by one

or more experts. Thus, the State assumes but is not certain that rebuttal reports are allowed under the Court's Order as long as they are filed as a response by the June 27, 2022 deadline.

Once the map and shapefiles are provided by the Plaintiffs to the State of Louisiana, the State of Louisiana needs clear guidance from the Court as to when it may conduct discovery on those maps, have the maps and supporting documents reviewed by their own experts, and have those experts author rebuttal reports as necessary to provide as defense in advance of the remedial hearing. The State has requested dates for depositions of Plaintiffs' experts but received no meaningful response. The State is unable to identify Rebuttal witnesses until such time as there has been a meaningful opportunity to review the remedial plan being offered by the Plaintiffs.

The Court's order is not clear on rebuttal reports, discovery or how the State Defendants can oppose the Plaintiffs' proposed remedy, and further conferences with the Court may be appropriate.

#### **IV. *Purcell* provides no reason to deprive litigants of due process.**

Concerns about *Purcell* seem to be driving this case to a hasty and ill-considered conclusion without a meaningful opportunity for review. *Purcell* admonished lower courts against the improvident interference with the election process. "Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls." *Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006) (*per curiam*). *Purcell*'s potential



application is compelled by the circumstances of a case. It is clearly not a signal to the courts to abandon the ordinary tools of litigation designed and proved by experience to produce a reasoned result. *Purcell* was never meant to recklessly accelerate voting rights litigation to the point that a state is effectively foreclosed from defending its sovereign interests. The doctrine simply cannot be read as a reason to rush a case across the finish line.

This case was born with a *Purcell* issue that was not the fault of the parties or the court. Census data was reported late. The legislature met in extraordinary session dedicated to reapportionment. It enacted a Congressional redistricting plan. The Governor took issue with the plan and vetoed it. The legislature overrode the Governor's veto on the earliest date permitted by the Louisiana Constitution. The Secretary of State as required by law began implementing and notifying voters and candidates and putting the election machinery in motion to hold the election as required by the U.S. Constitution and federal law.

Proceeding in haste to formulate election districts is not the answer. The litigation should proceed carefully and deliberately to determine whether the legislature's districts accord with law allowing sufficient time for appellate review of the decisions rendered by this court. If time and circumstances compel the application of *Purcell*, that must be secondary to ensuring that the parties have an opportunity to present sound evidence and arguments to aid the courts in reaching the best result for Louisiana.

Wherefore, the State of Louisiana requests a continuance of the remedial phase until such time as the United States Supreme Court rules and an adequate time period for discovery is allowed prior to the hearing on the remedial phase. Additionally, the State of Louisiana requests an opportunity to provide rebuttal reports to any reports provided by the Plaintiffs in connection with the remedial phase.

Respectfully submitted,

Jeff Landry  
Louisiana Attorney General

/s/ Angelique Duhon Freel  
Elizabeth B. Murrill (LSBA No. 20685)  
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Shae McPhee's (LSBA No. 38565)  
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/s/ Angelique Duhon Freel  
*Angelique Duhon Freel*

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