

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MICHAEL J. BOST, et al.,

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF  
ELECTIONS, et al.,

Defendants.

Civil Action No. 1:22-cv-02754

Judge John F. Kness

**JOINT INITIAL STATUS REPORT UNDER RULE 26(f)**

The parties have conferred as required by Rule 26(f), and jointly submit the following discovery plan. *See* Fed. R. Civ. P. 26(f)(2); Fed. R. Civ. P. 26(f)(3); Fed. R. Civ. P. 16(b). The parties understand that the Court will enter a scheduling order under Rule 16(b)(1), and that the Court will modify any such schedule “only for good cause.” *See* Fed. R. Civ. P. 16(b)(4).

**I. Nature of the Case**

A. Identify the attorneys of record for each party. Note the lead trial attorney and any local counsel.

**For Plaintiffs:**

T. Russell Nobile – lead counsel  
Christine Svenson – local counsel  
Paul J. Orfanedes  
Robert D. Popper\*  
Eric W. Lee\*

\* *Application for admission pro hac vice forthcoming*

**For Defendants:**

Amanda Kozar – lead counsel  
Mary Johnston

B. State the basis for federal jurisdiction.

Federal question under 28 U.S.C § 1331.

C. Provide a short overview of the case. (Please be brief.)

Plaintiffs are three registered voters, including one sitting U.S. Representative for Illinois' 12th Congressional District and congressional candidate for re-election. Plaintiffs bring suit for declaratory and injunctive relief against Defendants the Illinois State Board of Elections and Executive Director Bernadette Matthews (collectively, "Defendants"), seeking declaratory and injunctive relief. Specifically, Plaintiffs' claim that Illinois' fourteen day ballot receipt deadline in 10 ILCS 5/19-8(c) violates the Election Day deadline in 2 U.S.C. § 7 and 3 U.S.C. § 1 and burdens Plaintiffs' fundamental constitutional rights.

D. Describe the claims asserted in the complaint and the counterclaims and/or third-party claims and/or affirmative defenses.

Plaintiffs bring three claims regarding the 2022 and 2024 federal general elections. Generally, those claims involve whether 10 ILCS 5/19-8(c) violates 2 U.S.C. § 7 and 3 U.S.C. § 1, and whether 10 ILCS 5/19-8(c) violates Plaintiffs' right to vote and stand for office. 42 U.S.C. § 1983. No counterclaims or third-party claims are expected at this time.

E. What are the principal factual issues? (Please be brief.)

The factual issues are narrow and any discovery would be narrow. Plaintiffs presently submit their discovery would center around the number of ballots received and counted after Election Day during relevant federal general elections. Defendants agree that discovery would be limited and that any discovery sought by Defendants would likely focus on whether Plaintiffs having standing to bring their claims.

F. What are the principal legal issues? (Please be brief.)

Whether Defendants have violated Plaintiffs' rights under 42 U.S.C. § 1983 and meaning of 2 U.S.C. § 7 and 3 U.S.C. § 1. Defendants have raised an additional legal issue regarding whether Plaintiffs have standing to bring their claims.

G. What relief is the plaintiff(s) seeking (money damages, injunctive relief, etc.)?

Plaintiffs seek injunctive relief and attorney's fees

H. Have all the defendants been served, or waived service of process? If not, identify the defendants that have not received service.

All Defendants have been served.

**II. Case Scheduling and Discovery**

A. Propose a discovery schedule. Include the following deadlines: (1) any amendment to the pleadings to add new claims, or new parties; (2) service of process on any “John Doe” defendants; (3) the completion of fact discovery; (4) the disclosure of plaintiff’s expert report(s); (5) the deposition of plaintiff’s expert; (6) the disclosure of defendant’s expert(s); (7) the deposition of defendant’s expert; and (8) dispositive motions. **Fill in the blanks below.** Also, submit a Word version of the proposed scheduling order to Judge Kness’s proposed order inbox:

[Proposed Order Kness@ilnd.uscourts.gov](mailto:Proposed_Order_Kness@ilnd.uscourts.gov).

The template is available on the Court’s webpage.

The parties are reminded that, under Rule 16(b) of the *Federal Rules of Civil Procedure*, the Court is required to issue a scheduling order that includes “the time to join other parties, amend the pleadings, complete discovery, and file motions.” **If the parties are unable to agree on proposed dates to govern the remainder of the case, or to present their competing proposals, the Court will set those dates as required by Rule 16 without input from the parties. See Fed. R. Civ. P. 15(b)(1).**

The parties are also reminded that the pendency of a dispositive motion, such as a motion to dismiss, **does not** automatically cause discovery to be stayed.

Event	Deadline
Motions to Amend the Pleadings	September 15, 2022
Service of process on any “John Does”	N/A
Completion of Fact Discovery	December 31, 2022

Disclosure of Plaintiffs' Expert Report(s)	Plaintiffs – January 24, 2023
Deposition of Plaintiffs' Expert	February 14, 2023
Disclosure of Defendants' Expert Report(s)	Defendants – February 28, 2023
Deposition of Defendants' Expert	March 21, 2023
Dispositive Motions	April 14, 2023

C. How many depositions do the parties expect to take?

Parties do not expect to depose more than 3 fact witnesses each.

D. Do the parties foresee any special issues during discovery?

No.

D. Rule 26(f)(2) requires the parties to propose a discovery plan. *See* Fed. R. Civ. P. 26(f)(2). Rule 26(f)(3), in turn, provides that a “discovery plan must state the parties’ views and proposals” on six different topics. *See* Fed. R. Civ. P. 26(f)(3). Have the parties discussed a discovery plan, including all of the topics required by Rule 26(f)(3)? If so, do the parties propose anything?

If the parties do make any proposals, be sure to include them in the proposed scheduling order that will be sent to Judge Kness’s proposed order inbox.

### **III. Trial**

A. Have any of the parties demanded a jury trial?

Defendants reserve the right to request a jury trial. Plaintiffs do not demand a jury trial.

B. Estimate the length of trial.

In the event a trial is needed, parties submit it should not last longer than two days.

### **V. Settlement, Referrals, and Consent**

- A. Have any settlement discussions taken place? If so, what is the status? Has the plaintiff made a written settlement demand? And if so, did the defendant respond in writing? (Do not provide any particulars of any demands or offers that have been made.)

No settlement discussions have taken place and it is unlikely that Plaintiffs' claims can be settled through mediation.

- B. Do the parties request a settlement conference at this time before this Court or the Magistrate Judge?

No.

- C. Have counsel informed their respective clients about the possibility of proceeding before the assigned Magistrate Judge for all purposes, including trial and entry of final judgment? Do all parties unanimously consent to that procedure? The Court strongly encourages parties to consent to the jurisdiction of the Magistrate Judge.

Counsel for both Parties have informed their clients about the possibility of proceeding before a Magistrate Judge. All parties decline this procedure.

#### **IV. Other**

- A. Is there anything else that the plaintiff(s) wants the Court to know? (Please be brief.)

There are two dispositive motions pending before the Court: Defendants' Motion to Dismiss and Plaintiffs' Motion for Partial Summary Judgment.

- B. Is there anything else that the defendant(s) wants the Court to know? (Please be brief.)

Defendants do not have any additional information for the Court at this time.

August 2, 2022

**For Plaintiffs:**

s/ Russ Nobile  
T. Russell Nobile  
JUDICIAL WATCH, INC.  
Post Office Box 6592  
Gulfport, Mississippi 39506  
Phone: (202) 527-9866  
rnobile@judicialwatch.org

Christine Svenson, Esq.  
(IL Bar No. 6230370)  
SVENSON LAW OFFICES  
345 N. Eric Drive  
Palatine IL 60067  
T: 312.467.2900  
[christine@svensonlawoffices.com](mailto:christine@svensonlawoffices.com)

Paul J. Orfanedes (IL Bar No.  
6205255)  
Robert D. Popper\*  
Eric W. Lee\*  
JUDICIAL WATCH, INC.  
425 Third Street SW, Suite 800  
Washington, DC 20024  
Phone: (202) 646-5172  
porfanedes@judicialwatch.org  
rpopper@judicialwatch.org  
elee@judicialwatch.org

**For Defendants:**

/s/ Mary A. Johnston  
Mary A. Johnston  
Office of the Illinois Attorney General  
100 West Randolph Street  
Chicago, IL 60601  
(312) 814-4417  
[Mary.johnston@ilag.gov](mailto:Mary.johnston@ilag.gov)

/s/Amanda L. Kozar  
Amanda L. Kozar  
Office of the Illinois Attorney General  
100 West Randolph Street  
Chicago, IL 60601  
(312) 814-6534  
[Amanda.kozar@ilag.gov](mailto:Amanda.kozar@ilag.gov)