

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

**PLAINTIFFS' RESPONSE TO COURT'S ORDER TO SHOW CAUSE REGARDING
CASE SCHEDULE**

Plaintiffs respectfully submit the following response to the Court's January 31, 2023 order, which informed the parties that the "Court is considering setting deadlines in this case that mirror the deadlines set by the Order filed" in *Pennsylvania State Conference of the NAACP v. Chapman*, 1:22-CV-339-SPB (W.D. Pa.) (the "related action"), and instructed "[a]ny party here seeking a different schedule [to] show cause by February 6, 2023." ECF No. 212. In short, Plaintiffs believe that their claims can be adjudicated under the Court's proposed schedule so long as (1) the Court orders Defendants to send Plaintiffs, by February 10, 2023, all discovery materials produced in the related action (and permits Plaintiffs to use such materials on the same terms as the parties in that case), and (2) the parties in this case have until March 10 to serve any expert reports and until March 24 to complete expert discovery.

The first caveat relates to fact discovery. The Court's schedule in the related case states that "[f]act discovery, *which is already proceeding apace*, shall be completed by February 17, 2023." Case Management Order ("*Pa. NAACP CMO*"), *Pa. State Conf. of the NAACP v. Chapman*, No. 1:22-CV-339-SPB (W.D. Pa. Jan. 31, 2023), ECF No. 207 at 2 (emphasis added). While

discovery has been proceeding apace in the related case, it has not in this case. That is because— as Plaintiffs indicated they would in connection with the Court’s January 9, 2023 status conference, *see* ECF No. 99, 174—Plaintiffs recently moved to file an amended complaint, which removed two existing plaintiffs, added a new organizational plaintiff, and clarified the scope of their claims. *See* ECF No. 213. Nevertheless, the universe of discovery that Plaintiffs here would seek from Defendants is virtually identical to that which the plaintiffs in the related case have already requested from Defendants. As a result, so long as Plaintiffs here have access to the discovery exchanged in the related action, Plaintiffs here can adjudicate their claims under the expedited schedule ordered in the related action.¹

The second caveat relates to expert discovery. The Court’s schedule in the related action orders that “expert reports shall be served by February 24, 2023, and expert discovery shall close by March 17, 2023.” *Pa. NAACP CMO* at 2. Given that Plaintiffs here have not received the discovery that would serve as the basis of any expert report, Plaintiffs request that the calendar be adjusted to allow the parties in this case to serve expert reports, if any, by March 10, 2023, and to complete all expert discovery by March 24, 2023.

So long as these requests are accommodated, Plaintiffs have no objection to the Court adopting in this case the schedule issued in the related action.

¹ Any concern regarding the confidentiality of information contained in that discovery can easily be resolved by the adoption of the protective order proposed by Plaintiffs here. *See* ECF No. 221-1. That protective order is identical to the one proposed in the related case, to which all Defendants have agreed. *See* Mot. for Protective Order, *Pa. State Conf. of the NAACP v. Chapman*, No. 1:22-CV-339-SPB, (W.D. Pa. Feb. 3, 2023), ECF No. 227 at 3.

Dated: February 6, 2023

Respectfully submitted,

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