IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

JACQUELINE ROZIER, *et al.*, *Plaintiffs*, v. HOUSTON COUNTY BOARD OF ELECTIONS, *et al.*, *Defendants*.	Civil Action No. 5:25-cv-00478-MTT

PLAINTIFFS' REPLY IN SUPPORT OF OPPOSED MOTION TO AMEND SCHEDULING ORDER IN LIGHT OF *LOUISIANA v. CALLAIS*

Defendants' Opposition (ECF No. 38) largely addresses the ultimate merits of Plaintiffs' claims rather than the issue presently before the Court. The question raised by Plaintiffs' Motion is whether good cause exists under Rule 16(b) to modify certain scheduling deadlines in light of the Supreme Court's intervening decision in *Louisiana v. Callais*, 146 S. Ct. 1131 (2026). Plaintiffs respectfully submit that it does.

Notably, Defendants have now filed a motion for summary judgment raising many of the same merits arguments advanced in their Opposition. Indeed, Defendants rely extensively on *Callais* as a basis for judgment on Plaintiffs' claims. The present motion does not ask the Court to resolve those issues. Rather, Plaintiffs seek limited modification of the Scheduling Order to permit consideration of *Callais*

and any resulting need for supplemental pleading, factual development, or expert analysis before the Court adjudicates the merits.

Defendants' Opposition fails for three reasons. First, *Callais* materially developed the governing Section 2 framework after the relevant amendment and discovery deadlines had expired, and Plaintiffs acted diligently in seeking relief. Second, Defendants' futility arguments depend on resolving disputed merits questions that are not before the Court on this motion. Third, Defendants have not demonstrated the type of prejudice necessary to defeat a narrowly tailored request for scheduling relief under Rule 16.

I. The Present Motion Concerns Rule 16, Not the Ultimate Merits of Plaintiffs' Claims.

Rule 16(b)(4) permits modification of a scheduling order upon a showing of good cause. The good-cause inquiry focuses on diligence and asks whether the schedule could reasonably have been met despite the movant's diligence. *See Sosa v. Airprint Sys., Inc.*, 133 F.3d 1417, 1418-19 (11th Cir. 1998).

As Plaintiffs explained in their opening memorandum, courts within the Eleventh Circuit recognize that an intervening "change in controlling law" constitutes good cause for modification of a scheduling order. *Schwindler v. Bryson*, No. 1:11-CV-1276-TCB, 2015 WL 12990955, at *2 (N.D. Ga. Aug. 13, 2015) (citing *Fernandez v. Bankers Nat'l Life Ins. Co.*, 906 F.2d 559, 569 (11th Cir. 1990);

see also Kuithe v. Gulf Caribe Mar., Inc., No. 08-0458-WS-C, 2009 WL 3158193, at *2 (S.D. Ala. Sept. 29, 2009) ("[t]he 'good cause' standard may be satisfied by a showing that the substantive law changed")) (citations omitted); *Coton v. Televised Visual X-Ography, Inc.*, No. 8:07-CV-1332-T-TGW, 2008 WL 11336586, at *1 (M.D. Fla. Nov. 24, 2008) ("A recent change in Florida law provides good cause for the amendment at this stage of the litigation.").

Defendants try to avoid that principle by arguing that *Callais* did not eliminate Section 2 claims or expressly overrule all prior Section 2 precedent. ECF No. 38 at 5. But Rule 16 imposes no such requirement. The relevant question is whether the governing legal framework materially developed after the relevant deadlines expired and whether Plaintiffs acted diligently in seeking relief. The answer to both questions is yes.

Instead of addressing that Rule 16 inquiry, Defendants devote much of their Opposition to attacking Plaintiffs' experts, evaluating deposition testimony, and arguing that Plaintiffs ultimately cannot prevail under Defendants' interpretation of *Callais*. See. ECF No. 38 at 3-8. For example, Defendants argue that Plaintiffs cannot establish present-day discrimination, cannot satisfy the *Gingles* preconditions, cannot rely upon their illustrative plans, and cannot satisfy *Callais*. *Id.* Those arguments go to the merits of Plaintiffs' claims, not whether Plaintiffs have demonstrated good cause to seek limited modification of the Scheduling Order. The

Court need not determine whether Plaintiffs will ultimately prevail or whether Plaintiffs possess sufficient evidence to survive summary judgment. The issue before the Court is whether Plaintiffs have shown good cause under Rule 16 in light of an intervening Supreme Court decision issued near the close of discovery.

II. *Callais* Supports Modification of the Scheduling Order.

A. A change in controlling law constitutes good cause for modification of the scheduling order.

Defendants attempt to distinguish the authorities cited in Plaintiffs" opening memorandum by arguing that *Callais* did not eliminate a Section 2 claim under the Voting Rights Act. ECF No. 38 at 5. Yet, those authorities do not require an intervening decision to eliminate a claim entirely before good cause exists. *See, e.g. Schwindler v. Bryson*, No. 1:11-CV-1276-TCB, 2015 WL 12990955 (N.D. Ga. Aug. 13, 2015); *Kuithe v. Gulf Caribe Mar., Inc.*, No. CIV A 08-0458-WS-C, 2009 WL 3158193 (S.D. Ala. Sept. 29, 2009); *Coton v. Televised Visual Z-Ography, Inc.*, No. 8:07-CV-1332-T-TGW, 2008 WL 11336586 (M.D. Fla. Nov. 24, 2008). Instead, those cases recognize the common-sense proposition that modification may be appropriate when governing law materially develops after scheduling deadlines have expired. *Id.*

Schwindler and *Kuithe* are particularly instructive because both courts recognized that a change in controlling or substantive law may satisfy Rule 16's

good-cause standard, yet denied relief because no such change had occurred. *See Schwindler*, 2015 WL 12990955, at *2-*3 (finding no good cause where "there ha[d] been no change in the controlling law"); *Kuithe,* 2009 WL 3158193, at *2 (finding no good cause where "there ha[d] been no change in the law"). Those decisions reinforce, rather than undermine, Plaintiffs' position. Unlike the movants in *Schwindler* and *Kuithe*, Plaintiffs seek relief precisely because the Supreme Court issued *Callais* after the relevant amendment and discovery deadlines had expired.

Coton is even more directly on point. There, the court found good cause to modify the scheduling order where a "recent change in Florida law" altered the governing legal framework after the amendment deadline had passed. *Coton*, 2008 WL 11336586, at *1. The court emphasized that the plaintiff acted promptly in response to the intervening decision and concluded that the change in law justified amendment. *Id.* The same principle applies here. Plaintiffs promptly sought limited modification of the Scheduling Order after *Callais* was issued so that they could evaluate its impact on the claims, evidence, expert analysis, and discovery in this action.

Taken together, these cases confirm that Rule 16 does not require an intervening decision to eliminate a cause of action before good cause exists. It is enough that governing law materially develops after the relevant deadlines have

expired and that the moving party acts diligently in seeking relief. Plaintiffs have satisfied both requirements here.

B. Callais *materially developed the governing framework applicable to this case.*

Plaintiffs have made clear that *Callais* did *not* expressly overrule all prior Section 2 precedent. ECF No. 37-1 at 5. Rather, Plaintiffs reiterate that, whether characterized as a change, clarification, or update to the governing framework, *Callais* announced significant guidance concerning issues central to this case and was decided after the relevant amendment and discovery deadlines had expired.

Defendants acknowledge that *Callais* altered at least some aspects of the legal framework governing Section 2 litigation. See ECF No. 38 at 6 n.2. The Supreme Court itself described *Callais* as an "update" to the framework governing Section 2 claims. *Callais*, 146 S. Ct. at 1157. Just last week, the Supreme Court emphasized the multiple ways *Callais* "updated the standards for §2 liability established by *Thornburg v. Gingles*, 478 U. S. 30 (1986)." *Allen v. Milligan*, No. 25A1314, No. 25A1315, No. 25A1316, 2026 WL 1552756, slip op. at 1 (June 2, 2026). The Court explained:

> Now, to satisfy the first Gingles precondition, a plaintiff's alternative map "must meet all the State's legitimate districting objectives" "just as well" as the State's own map. 608 U.S., at ___ (slip op., at 29) (emphasis added). Those legitimate districting objectives, we held, include "the State's specified political goals" and "any other goal not

> prohibited by the Constitution." *Ibid*. A plaintiff also "cannot use race as a districting criterion" in preparing the alternative map. *Ibid*. To prove the second and third preconditions, a plaintiff "must provide an analysis that controls for party affiliation" and "show that voters engage in racial bloc voting that cannot be explained by partisan affiliation." *Id*., at ___ (slip op., at 30). *These updates, we held, were necessary to avoid requiring congressional maps under §2 that would be unconstitutional racial gerrymanders.*

Id. at 2 (emphasis added). These "updates" do not merely explain existing understandings of the *Gingles* preconditions—they directly change what Section 2 redistricting plaintiffs must show to establish and substantiate a Section 2 claim, significantly complicating their evidentiary burdens.

Indeed, Defendants concede that *Callais* alters the first *Gingles* factor in a way that represents "a change in the law in this Circuit." ECF No. 38 at 6 n. 2. Defendants offer no similar express concession as to *Callais'* impact on the second and third *Gingles* factors, but clearly nothing in prior Eleventh Circuit or Supreme Court jurisprudence linked polarized voting and partisan factors in the manner the Court did in *Callais.*

Callais also alters the standards in the totality of circumstances inquiry. Rather than relying on historical factors that shape "present day disparities," Section 2 redistricting plaintiffs must put forth "'current data' and 'current political conditions' that shed light on current intentional discrimination.'" *Callais*, 146 S.Ct. at 1160. Defendants' citation to *Greater Brimingham Ministries v. Sec'y of State for State of*

Alabama, ECF No. 38 at 5-6, is unavailing on their claim that a focus on present discrimination was already established Eleventh Circuit law. The Eleventh Circuit found that the *Gingles* factors were not even applicable to the vote denial claim in question. *Greater Birmingham Ministries,* 992 F.3d 1299, 1331-1332 (11th Cir. 2021). The court focused on evidence of historical voting-related discrimination only in discussing *Gingles* Factors 1 and 2, not as part of the totality of circumstances inquiry. *Id*. at 1332. The court "credit[ed] Plaintiffs' argument about Alabama's history of voting-related discrimination" while cautioning against reliance on such old evidence to decide the claims in question. *Id*. By contrast, in *Callais,* the Supreme Court concluded that "discrimination that occurred some time ago…[is] entitled to much less weight" when analyzing the totality of circumstances. *Callais*, 146 S. Ct. at 1160. Like the *Gingles* pre-conditions, the totality of circumstances inquiry has been substantially changed.

Defendants' effort to minimize the significance of these developments misses the point. Defendants' own filings underscore the significance of *Callais* to this litigation. In both their Opposition and Motion for Summary Judgment, Defendants repeatedly invoke *Callais* as a basis for judgment on Plaintiffs' claims. Defendants cannot simultaneously argue that *Callais* supplies new reasons why Plaintiffs lose while insisting that *Callais* has no meaningful effect on the schedule. At a minimum, Defendants' extensive reliance on *Callais* confirms that the decision raises

significant issues that neither the parties nor the Court could fully address before it was issued. The Court need not resolve the parties' competing interpretations of *Callais* at this stage. It is sufficient that Plaintiffs promptly sought relief after the decision became available and that *Callais* materially affects issues central to this litigation.

C. Plaintiffs' prior opposition to a stay does not undermine good cause.

Defendants also emphasize that Plaintiffs opposed a stay before *Callais* was decided. ECF No. 38 at 1. When Defendants sought a stay, *Callais* had not been decided. No party knew whether the Supreme Court would resolve the case narrowly, substantially alter Section 2 doctrine, address the constitutionality of Section 2, or take some other path. Plaintiffs opposed pausing their case based on speculation about a future decision. The Court denied Defendants' stay request. Plaintiffs then did what the Court's order required: they litigated the case under the operative schedule.

Nothing in Rule 16 transforms compliance with a court-ordered schedule into a waiver of the right to seek targeted relief after an intervening Supreme Court decision issues. A party does not forfeit post-decision scheduling relief merely because it opposed a pre-decision stay. The diligence inquiry focuses on whether Plaintiffs acted diligently in light of the circumstances that actually existed. Indeed,

Defendants do not dispute that Plaintiffs acted diligently following *Callais*. Plaintiffs could not have addressed the impact of a decision that had not yet been issued, and they promptly sought relief once the decision became available. Rule 16 requires diligence, not clairvoyance.

In sum, the scope and impact of the new elements or standards of proof that *Callais* attaches to Section 2 redistricting claims constitute a substantial change of law. The change establishes good cause to amend the Scheduling Order to afford Plaintiffs the opportunity to analyze and apply the new standards to the facts of this case, move to amend their complaint if warranted and conduct such further discovery as may be reasonably necessary to meet those standards.[1]

III. Defendants' Futility Arguments Are Premature.

Defendants' principal argument is that "any amendment of the scheduling order would be futile" because, in Defendants' view, "Plaintiffs' claim fails on the

[1] Plaintiffs do not share Defendants' assumption that all aspects of *Callais'* analysis in the context of a Section 2 redistricting case necessarily apply here. This is not a redistricting case. Plaintiffs challenge Houston County's use of an at-large voting system—*i.e.,* Defendants' refusal to use any redistricting plan at all. As a result, Defendants cannot claim to have followed any traditional redistricting criteria, nor to have achieved any partisan-based redistricting objectives, that would be afforded deference under the new rules set forth in *Callais.* Any disagreement as to the applicability of *Callais* in this case cannot prevent Plaintiffs from seeking the discovery required to satisfy *Callais* to the extent it applies.

legal standards governing Section 2 cases before and after *Callais*." ECF No. 38 at 7-8. This argument fails and is premature for three reasons.

First, "futility" measures the sufficiency of a pleading in a response to a motion to amend under Rule 15—which Plaintiffs have not yet filed; futility is not part of the independent analysis required by Rule 16(b) for amending a scheduling order.

Second, Defendants' futility arguments also fail and are premature because they ask the Court to decide Defendants' summary judgment motion before it has been fully briefed, and before Plaintiffs have had the opportunity to conduct the discovery they need to respond to the motion under the new *Callais* standards. Plaintiffs have not filed a motion for leave to amend and have not submitted a proposed amended complaint. Instead, Plaintiffs seek only modification of the Scheduling Order to permit evaluation of whether amendment and supplemental discovery are necessary in light of *Callais*. Forcing Plaintiffs to respond to, and the Court to decide, summary judgment arguments in the context of a Rule 16(b) scheduling motion makes no practical sense and contradicts both Rule 16(b) and Rule 56(d).

Third, the summary judgment arguments that Defendants present in opposition to Plaintiffs' scheduling motion boil down to the theory that the evidence Plaintiffs gathered under the old Section 2 standards is insufficient to defeat

Defendants' summary judgment motion under the new ones. But Defendants make no attempt to show, and cannot show, that anything in the record precludes Plaintiffs from gathering ***additional*** evidence sufficient to satisfy the new *Callais* standards. Instead, the very evidence Defendants cite leaves plenty of room for additional discovery to satisfy those standards.

As a result, Defendants' futility arguments necessarily rest on speculation regarding amendments that have not been proposed and discovery that has not been sought.

The Court need not resolve merits issues to determine whether Plaintiffs have shown good cause under Rule 16. Defendants' futility argument effectively assumes the success of the very merits arguments currently presented in their summary judgment motion. Whether Defendants are ultimately correct is a question for merits adjudication. It is not a basis to deny scheduling relief following an intervening Supreme Court decision.

Moreover, Defendants' extensive merits discussion further supports Plaintiffs' request. The parties plainly disagree about the meaning and effect of *Callais*. Plaintiffs seek a limited opportunity to assess and address those issues before the Court resolves dispositive motions. Rule 16 exists to facilitate the orderly administration of litigation in precisely these circumstances.

IV. Defendants Have Not Demonstrated Undue Prejudice.

Defendants characterize Plaintiffs' request as an effort to obtain a "do-over" or restart the litigation from the beginning and argue that any modification would cause "severe" prejudice. ECF No. 38 at 9. Neither assertion is accurate. Plaintiffs seek only limited modifications to permit consideration of *Callais* and any resulting need for supplemental pleading, factual development, or expert analysis. Plaintiffs do not seek to discard the substantial discovery already completed, reopen every aspect of this litigation, or revisit issues unrelated to *Callais*. Plaintiffs diligently conducted fulsome fact and expert discovery in accordance with pre-*Callais* law and are now forced to expand that discovery because the Supreme Court changed the law. Thus, the requested relief is narrowly directed toward those issues.

Nor does the existence of Defendants' pending summary judgment motion—filed after this motion for scheduling relief—establish prejudice. Those are ordinary consequences of litigation and are not the type of prejudice that warrants denying a diligent request for limited scheduling relief following a significant intervening Supreme Court decision. Courts regularly reopen discovery after the filing of summary judgment motions when additional discovery legitimately becomes necessary, as it clearly has here. *See, e.g., Collins v. Int'l Dairy Queen*, 190 F.R.D. 629, 636–37 (M.D. Ga. 1999); *Allstate Vehicle & Prop. Ins. Co. v. Jawanda*, 728 F. Supp. 3d 1246, 1255–56 (N.D. Ga. 2024); *Lamar Advert. of Mobile, Inc. v. City of*

Lakeland, Fla., 189 F.R.D. 480, 492-93 (M.D. Fla. 1999); *Littlejohn v. Shell Oil Co.*, 483 F.2d 1140, 1145–46 (5th Cir. 1973).

Defendants' other argument—that reopening discovery "compound[s] the potential liability for Defendants," ECF No. 38 at 9—simply acknowledges that Plaintiffs clearly do have the potential to prevail in this case if they are permitted to conduct the discovery *Callais* requires. Far from establishing prejudice, Defendants' admitted "potential liability" reinforces that Plaintiffs, not Defendants, would be severely prejudiced by denial of their rescheduling motion.

Finally, permitting limited modification of the Scheduling Order promotes, rather than undermines, efficiency. Defendants have now filed a summary judgment motion that relies heavily on *Callais* and seeks judgment based on the decision's purported impact on numerous aspects of Plaintiffs' case. Allowing Plaintiffs a limited opportunity to evaluate and address those issues before merits adjudication proceeds is a more orderly course than requiring the parties and the Court to litigate the effect of *Callais* on a record developed almost entirely before *Callais* was issued.

CONCLUSION

For the foregoing reasons, and those stated in Plaintiffs' opening memorandum, Plaintiffs respectfully request that the Court grant the Motion to Amend the Scheduling Order.

Dated: June 12, 2026 Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 12, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

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