

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

LEAGUE OF WOMEN VOTERS OF
NORTH CAROLINA, *et al.*,

Plaintiffs,

v.

ROBERT A. RUCHO, in his official
capacity as Chairman of the North Carolina
Senate Redistricting Committee for the
2016 Extra Session and Co-Chairman of
the 2016 Joint Select Committee on
Congressional Redistricting, *et al.*,

Defendants.

CIVIL ACTION
NO. 1:16-CV-1164

THREE-JUDGE COURT

PLAINTIFFS' AMENDED RULE 26(f) REPORT

1. It is imperative that this case is not delayed to ensure that, if this Court finds the 2016 Congressional Plan is an unconstitutional partisan gerrymander, Plaintiffs can obtain a remedy prior to the 2018 mid-term elections. To avoid unnecessary delays, Plaintiffs personally served all of the Defendants, and subsequently argued against Defendants' Motion to Extend Time to Answer, which was granted. *See* Dkt. 29. The Motion to Dismiss ultimately filed by Defendants demonstrated that there was no genuine need for additional time, as there was no significant difference in the Motion to Dismiss it submitted in the related case, *Common Cause v. Rucho*, No. 1:16-cv-1026 (M.D.N.C. Aug. 5, 2016). *See* Dkts. 30-31; *see also* *Common Cause*, Dkts. 28-29. Plaintiffs urge the

Court to prohibit Defendants from continuing to delay this case.

2. In conformance with this Court's Order dated December 19, 2016 (Dkt. 32), the Plaintiffs filed their initial Rule 26(f) report on December 19, 2016. The Defendants then filed their Rule 26(f) report with the Court on January 4, 2017. After the filing of the parties' pretrial reports, and upon agreement of the parties, on January 13, 2017 the Court scheduled the pretrial conference in the above-captioned matter to be held on February 6, 2017 at 2:00 PM.

3. In light of the date set by the Court for the pretrial conference, several of the proposed dates in Plaintiffs' original Rule 26(f) report will have already passed by the time the pretrial conference is held, including the proposed deadline for Plaintiffs to amend pleadings, the deadline for both parties to produce initial disclosures, and the deadlines for expert reports and disclosures, among others. Thus, the Plaintiffs propose the following amended timeline:

4. **Discovery Plan**. Plaintiffs propose to the Court the following discovery plan:

- a. Discovery will be needed on the following subjects: (i) the allegations and prayer for relief in Plaintiffs' Complaint; and (ii) the defenses and allegations in Defendants' Answer, when filed.
- b. Discovery shall be placed on a case-management track established in LR 26.1. Plaintiffs propose that the appropriate plan for this case (with any stipulated modification by the parties as set out below) is that designated in LR 26.1(a) as standard.

- c. The date for the completion of all discovery (general and expert) shall be March 24, 2017.
 - d. Modifications to the case management track should include: (i) discovery shall be completed by March 24, 2017; (ii) depositions shall be limited to 10 depositions, including experts, by Plaintiffs (collectively), and 10 depositions, including experts, by Defendants (collectively); (iii) Plaintiffs (collectively) and Defendants (collectively) may serve up to 150 requests for admission; and (iv) Plaintiffs (collectively) may serve up to 15 interrogatories on Defendants, and Defendants (collectively) may serve up to 15 interrogatories on each individual Plaintiff (provided that interrogatories directed to Plaintiffs as individuals are consistent as among Plaintiffs).
 - e. Reports required by Rule 26(a)(2)(B) and disclosures required by Rule 26(a)(2)(C) shall be due during the discovery period, from Plaintiffs on or before February 10, 2017, and from Defendants on or before, March 10, 2017.
 - f. Supplementations will be as provided in Rule 26(e) or as otherwise ordered by the court.
5. **Mediation**. Mediation is not required under LR 16.4 for this case. Plaintiffs request that the Court enter an order providing that the parties need not participate in mediation in this case.

6. **Preliminary Deposition Schedule.** Plaintiffs propose the following schedule for depositions: Depositions of expert witnesses shall be completed no later than March 24, 2017. To the extent possible, dates for depositions shall be set by mutual agreement.

7. **Other Items.**

- a. Plaintiffs and Defendants should be allowed until February 8, 2017, to request leave to join additional parties or amend pleadings.
- b. After these dates, the Court will consider, *inter alia*, whether the granting of leave would delay trial.
- c. With regard to the possibility of special procedures for managing this case, including reference of the case to a Magistrate Judge on consent of the parties under 28 U.S.C. § 636(c), or appointment of a master, Plaintiffs state that they do not wish to use any such procedures.
- d. Trial of the action is expected to take approximately 3 days. A jury trial has not been demanded. Plaintiffs propose that the Court order the parties to be ready for trial no later than May 1, 2017, with a trial to be scheduled on that date or soon thereafter. Plaintiffs also express their willingness to be ready for trial at an earlier date, at the Court's discretion, to accommodate any scheduling issues.
- e. Plaintiffs propose that initial disclosures shall be due by February 8, 2017.
- f. Defendants have filed a motion to dismiss. The briefing by both parties is

complete, with Defendants' reply brief filed January 3, 2017.

Respectfully submitted, this 1st day of February 2017.

/s/ Anita S. Earls

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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record.

This the 1st day of February 2017.

/s/ Anita S. Earls
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