

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR CONSTITUTIONAL
INTEGRITY,

Plaintiff,

v.

THE CENSUS BUREAU, *et al.*,

Defendants.

Case No. 1:21-cv-3045-CJN-JRW-FYP

**DECLARATION OF ALEXANDER V. SVERDLOV
IN SUPPORT OF DEFENDANTS' RULE 56(d) MOTION**

I, Alexander V. Sverdlov, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a Trial Attorney of the Federal Programs Branch, an office within the Civil Division of the U.S. Department of Justice. I, along with another Trial Attorney, represent Defendants in this litigation.
2. Plaintiff, Citizens for Constitutional Integrity, filed its complaint in this case on November 17, 2021. ECF No. 1. Under Rule 12(a)(2) of the Federal Rules of Civil Procedure, Defendants' response to the complaint was due on January 24, 2022.
3. On January 14, 2022 Plaintiff filed a motion for summary judgment. ECF No. 14. The motion attached supporting exhibits, including declarations from four individuals who stated they were members of Citizens for Constitutional Integrity (ECF Nos. 14-22, 14-23, 14-24, 14-25) and a declaration from Data Scientist Ayush Sharma (ECF 14-5) who outlined the results of various statistical calculations.
4. At the time Plaintiff filed this motion, the Court had not set a discovery schedule in this matter.

5. Prior to filing the motion for summary judgment, Plaintiff did not provide counsel for Defendants any disclosure identifying its members who submitted declarations, as required under Rule 26(a)(1) of the Federal Rules of Civil Procedure. Likewise, prior to filing the motion for summary judgment Plaintiff did not disclose to counsel for Defendants the expert witness report that was attached to Plaintiff's motion, as required under Rule 26(a)(2) of the Federal Rules of Civil Procedure. Plaintiff subsequently amended its complaint, ECF No. 20, and renewed its summary-judgment motion, ECF No. 22, but has still not provided any required disclosures under Rule 26.
6. If Plaintiff's evidence is not excluded, then to oppose Plaintiff's motion for summary judgment, Defendants require facts regarding the basis and reliability of the testimony offered by Plaintiff's witnesses, especially Plaintiff's expert Ayush Sharma. Mr. Sharma opines on certain apportionment scenarios based on various voter-registration data, concluding that some seats should shift between States. *See* Sharma Decl. ¶¶ 7–16, ECF No. 14-5. Mr. Sharma's opinions rest on data sources and reports that have disclosed limitations, and disclosed and undisclosed margins of error. ECF 14-8; ECF 14-10. Defendants would seek a deposition of Mr. Sharma to ascertain Mr. Sharma's qualifications and calculations, including the underlying assumptions of his scenarios and limits of his data and analysis. Depending on the facts learned in his deposition, Defendants may seek to exclude the testimony of Mr. Sharma for reasons such as a lack of qualifications or use of an unsound methodology.
7. Defendants may also wish to use their own experts to rebut Mr. Sharma's methodology or to provide further information about the limits of data sources Mr. Sharma uses.

8. Defendants would likewise seek to depose the lay witnesses to determine the basis for the facts and views they express in their declarations, including their residency and knowledge of voting requirements across different States.
9. In addition to depositions, Defendants may also serve interrogatories and Requests for Admission about the scope of Plaintiff's claims that could focus the issues for any future summary-judgment motion or trial. Defendants may also consider serving document requests if this case progressed to discovery.
10. Defendants have been unable to accomplish any of these tasks because discovery in this case has not been opened, and Plaintiff has not provided initial disclosures as required by Rule 26(a).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 19, 2022.



ALEXANDER V. SVERDLOV