

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FAIR FIGHT ACTION, INC, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

Civ. Act. No. 18-cv-5391 (SCJ)

**PLAINTIFFS’ REPLY IN SUPPORT OF THEIR MOTION TO OPEN
DISCOVERY AND FOR A SCHEDULING CONFERENCE**

Two critical issues remain from briefing on Plaintiffs’ Motion to Open Discovery and for a Scheduling Conference (“Plaintiffs’ Motion”), ECF No. 70 and Defendants’ Opposition, ECF No. 75: (1) whether discovery should start on July 1, 2019, two weeks earlier than it would start under Local Rule 26.2(A); and (2) a date for this case to be ready for trial.¹

Plaintiffs’ urgency for starting the discovery period on July 1, 2019, is simple: Plaintiffs allege Defendants have committed widespread constitutional violations of Georgians’ fundamental right to vote, and that the violations will

¹ Although Plaintiffs considered a second Rule 26(f) conference unnecessary because the Parties filed the Joint Preliminary Report and Discovery Plan eight days after Plaintiffs filed their Amended Complaint, the Parties held such a conference on June 27, 2019. Whether the Parties should hold a second Rule 26(f) conference is no longer an issue for the Court to decide.

repeat themselves in the upcoming elections unless this Court grants Plaintiffs' requested relief. Those upcoming elections are fast approaching. For example, on June 19, 2019, the Secretary of State announced that Georgia's presidential primaries will be held March 24, 2020.² The general election will occur on November 3, 2020.³ Given the 2020 election timetable, starting discovery two weeks earlier is material to resolving this case before those elections.⁴ The unique time constraints in this case and the indisputable importance of the fundamental right at issue provide good cause for this Court ordering that discovery commences July 1, 2019.

In contrast, Defendants do not offer a good reason for delaying the start of discovery beyond July 1, 2019, given the upcoming elections. Defendants also do not contend that starting discovery two weeks earlier than July 15, 2019, will impose any hardship on them.

² Ga. Sec'y of State, *Secretary Of State Brad Raffensperger Sets Presidential Preference Primary Date, Tuesday, March 24th*, (June 19, 2019), https://sos.ga.gov/index.php/general/secretary_of_state_brad_raffensperger_sets_presidential_preference_primary_date.

³ Sarah Almukhtar, Jonathan Martin and Matt Stevens, *2020 Presidential Election Calendar*, N.Y. Times (June 25, 2019), <https://www.nytimes.com/interactive/2019/us/elections/2020-presidential-election-calendar.html>.

⁴ Plaintiff's proposed Scheduling Order, attached as an exhibit to Plaintiffs' Motion, shows the various pre-trial events for which time must be scheduled.

The Parties held two discussions (one being the second Rule 26(f) conference) after Defendants filed their Opposition to Plaintiffs' Motion. Based on those discussions and the briefing submitted in relation to Plaintiffs' Motion, there are scheduling issues that cannot be resolved without this Court's involvement. This Court entered a Scheduling Order on March 15, 2019, in which the Court ruled that "Plaintiffs may renew their request for a scheduling conference [following the Court's ruling on the outstanding motion to dismiss] if they wish to do so." ECF No. 51 at 2. This Court ruled on the outstanding motion to dismiss on May 30, 2019. Plaintiffs renew their request for a scheduling conference with the Court to determine quickly a trial-readiness date.

CONCLUSION

For the foregoing reasons, Plaintiffs request that the Court open discovery on July 1, 2019, and set a scheduling conference as quickly as this Court's schedule permits to determine a trial readiness date.

Respectfully submitted the 28th day of June 2019.

CERTIFICATE OF COMPLIANCE

I certify that this brief has been prepared in a Times New Roman 14-point font, one of the font and point selections that this Court has approved. *See* LR 5.1(C)(3).

/s/Allegra J. Lawrence

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CERTIFICATE OF SERVICE

I hereby certify that on this, the 28th day of June 2019, I caused to be electronically filed the foregoing Plaintiffs' Reply In Support of Their Motion to Open Discovery and for a Scheduling Conference with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing upon Counsel of Record:

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