

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

NANCY CAROLA JACOBSON, *et al.*,

Plaintiffs,

v.

Case No. 4:18cv262-MW/CAS

LAUREL M. LEE, in her official
capacity as the Florida
Secretary of State, *et al.*,

Defendants.

ORDER DENYING MOTIONS FOR SUMMARY JUDGMENT

This Court has considered, without hearing, the motions for summary judgment filed by Plaintiffs, Defendant, and Intervenor-Defendants. ECF Nos. 115, 116, and 117. Defendant's and Intervenor-Defendants' arguments regarding justiciability, laches, standing, and the applicable statute of limitations are unpersuasive. As for the merits, the *Anderson-Burdick* balancing test applies. There are material issues of disputed fact regarding "position bias" and its purported effects on Florida elections as well as the viability of alternatives to the current scheme. For example, at this juncture, this Court cannot "weigh" the testimony of the experts. Accordingly, the motions for summary judgment are **DENIED**.

The bench trial set for July 15, 2019, shall proceed as scheduled. It is a legal truism that what the lawyers say is not evidence and will not be considered as such. This Court will base its decision on the evidence or lack of evidence admitted at trial.

SO ORDERED on May 13, 2019.

s/Mark E. Walker
Chief United States District Judge