

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**LEAGUE OF WOMEN
VOTERS OF OHIO, et al.,**

Plaintiffs,

v.

**Civil Action 2:20-cv-3843
Judge Michael H. Watson
Magistrate Judge Jolson**

FRANK LAROSE,

Defendant.

MEMORANDUM OF FIRST PRETRIAL CONFERENCE

This matter came before the Court on February 18, 2021 at 10:15 a.m. at the First Pretrial Conference pursuant to notice and in accordance with Rule 16 of the Federal Rules of Civil Procedure. Counsel appeared as follows:

For Plaintiffs:

Freda J. Levenson, Tiffany Alora Thomas, Pooja Chaudhuri, Joshua Picker, and Jeremy Patashnik

For Defendants:

Julie M. Pfeiffer and Ann Yackshaw for Defendant Secretary of State
Edward Carter for Intervenor-defendant the Republican Committees

The following matters were considered:

INITIAL DISCLOSURES

The parties shall exchange initial disclosures by February 26, 2021.

VENUE AND JURISDICTION

Defendant Secretary of State maintains that the Plaintiffs lack standing to bring their claims. Defendants will raise standing in a Motion for Summary Judgment.

PARTIES AND PLEADINGS

Any motion to amend the pleadings or to join additional parties shall be filed by March 3, 2021.

ISSUES

This is an action for a declaratory judgment and permanent injunctive relief seeking reform of the signature matching process used by Ohio boards of elections under the direction of Ohio's Secretary of State to verify absentee ballot applications and absentee ballots. Plaintiffs ask the court (1) to enjoin the rejection of any absentee ballot application or absentee ballot on the basis of signature mismatch if there is not adequate notice to the voter or adequate opportunity for the voter to cure the rejection, and (2) to order the adoption of uniform statewide standards to govern the signature analysis process. There is no jury demand.

DISCOVERY PROCEDURES

The parties agree that all discovery shall be completed by June 30, 2021. For purposes of complying with this order, all parties shall schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and shall file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court. To initiate a telephone conference, counsel are directed to join together on one line and then call the Magistrate Judge's chambers or provide the Court with a call-in number.

The parties will meet and confer to try to agree upon an ESI Protocol that will govern: (1) the parties' format of ESI production, (2) ESI metadata, (3) paper document scanning and production, and (4) requests to produce certain documents in native format.

Any proposed protective order or clawback agreement shall be filed with the Court by March 1, 2021. A Word version of the proposed protective order should be sent to jolson_chambers@ohsd.uscourts.gov, and any provision related to sealing must comply with S.D. Ohio Civ. R. 5.2.1.

DISPOSITIVE MOTIONS

Any dispositive motions shall be filed by July 30, 2021.

EXPERT TESTIMONY

Primary expert reports must be produced May 14, 2021. Rebuttal expert reports must be produced by June 15, 2021. If the expert is specifically retained, the reports must conform to Fed. R. Civ. P. 26(a)(2)(B), unless otherwise agreed to by the parties. If the expert is not specifically retained, the reports must conform to Fed. R. Civ. P. 26(a)(2)(C), unless otherwise agreed to by the parties. Pursuant to Fed. R. Civ. P. 26(b)(4)(A), leave of court is not required to depose a testifying expert.

SETTLEMENT

Plaintiffs will make a settlement demand by March 1, 2021. Defendant will respond no later than two weeks after Plaintiffs' demand. The parties agree to make a good faith effort to settle this case. The parties will contact the Court if mediation services are required. In order for the conference to be meaningful, the parties agree to complete all discovery that may affect their ability to evaluate this case prior to the settlement conference. The parties understand that they will be expected to comply fully with the settlement order which requires *inter alia* that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

OTHER MATTERS

None.

If the foregoing does not accurately record the parties' agreements, counsel will please immediately make their objection in writing. If any date set in this order falls on a Saturday, Sunday or legal holiday, the date is automatically deemed to be the next regular business day.

IT IS SO ORDERED.

Date: February 18, 2021

/s/ Kimberly A. Jolson
KIMBERLY A. JOLSON
UNITED STATES MAGISTRATE JUDGE