

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

FLORIDA RISING TOGETHER, FAITH IN
FLORIDA, UNIDOSUS, EQUAL GROUND
EDUCATION FUND, HISPANIC
FEDERATION, and PODER LATINX,

Plaintiffs,

v.

LAUREL M. LEE, in her official capacity as
the Secretary of State of Florida, and PENNY
OGG, in her official capacity as Supervisor
of Elections for Highlands County, Florida,
SHIRLEY GREEN KNIGHT, in her official
capacity as the Supervisor of Elections for
Gadsden County, Florida, MARY JANE
ARRINGTON, in her official capacity as
Supervisor of Elections for Osceola County,
Florida, and CRAIG LATIMER, in his
official capacity as the Supervisor of
Elections for Hillsborough County, Florida,
on behalf of themselves and all those
similarly situated,

Defendants.

Case No. 4:21-cv-201-AW-MJF

**UNOPPOSED MOTION TO
TRANSFER FOR
CONSOLIDATION WITH
RELATED CASES**

Pursuant to the Federal Rules of Civil Procedure and Local Rule 7.1, Plaintiffs bring this unopposed motion asking this Court to transfer this case so that it can be consolidated with three other closely related cases that are currently pending before Chief Judge Walker. Reassignment of this case to Chief Judge Walker is very much

in the interest of judicial economy and will preserve the resources of the parties. This motion is unopposed by Defendants Ogg, Knight, Arrington, and Latimer. Defendant Lee takes no position.

MEMORANDUM IN SUPPORT

BACKGROUND

1. On May 6, 2021, prior to the filing of the above-captioned action in this Court, a separate action entitled *League of Women Voters of Florida, Inc., et al. v. Lee, et al.*, No. 4:21-cv-00186-MW-MAF, was filed in this District. That suit challenged a number of provisions of recently enacted election legislation (bill S.B. 90), including Sections 7, 28 and 29.

2. Also on May 6, 2021, a second action entitled *Florida State Conference of Branches and Youth Units of the NAACP, et al. v. Lee*, No. 4:21-cv-00187-MW-MAF, was filed in this District, also challenging various provisions of S.B. 90, including Sections 24, 28, and 29. The *NAACP* suit was assigned to this Court.¹ After the Plaintiffs in the *NAACP* matter filed a notice pursuant to Local Rule 5.6 indicating a relation between that case and the *League of Women Voters* matter, on May 14, this Court issued an Order reassigning the *NAACP* matter to Chief Judge

¹ The *NAACP* suit was initially assigned to Judge Stafford, who recused himself. Upon recusal, the matter was reassigned to this Court.

Walker. Order of Reassignment, *Fla. State Conference of Branches and Youth Units of the NAACP v. Lee*, No. 4:21-cv-00187-MW-MAF (May 14, 2021), ECF No. 16.

3. This matter was filed on May 17, 2021. Like the *League of Women Voters* case and the *NAACP* case, this matter challenges various provisions of S.B. 90, including Sections 7, 24, 28, and 29. On May 18, 2021, Plaintiffs filed a notice pursuant to Local Rule 5.6 indicating a relation between this case and the *League of Women Voters* and *NAACP* matters. ECF No. 4.

4. Subsequent to the filing of this action, on June 14, 2021, a fourth action was filed in this District, entitled *Harriet Tubman Freedom Fighters, Corp. et al. v. Lee et al.*, No. 4:21-cv-242-MW-MAF, also challenging Section 7 of S.B. 90. That case was assigned to Chief Judge Walker.

5. On June 16, 2021, Defendant Lee filed an unopposed motion in this case requesting that it be consolidated with the three actions pending before Chief Judge Walker under the first-filed case, *League of Women Voters*. ECF 39. That motion remains pending.

6. At the same time, Defendant Lee also filed unopposed motions in the *League of Women Voters*, *NAACP*, and *Harriet Tubman* cases requesting consolidation with this case and each other. *See, e.g.*, Secretary of State Laurel M. Lee's Unopposed Motion to Consolidate, *League of Women Voters of Florida, Inc. v. Lee*, No. 4:21-cv-00186-MW-MAF (June 16, 2021), ECF No. 87.

7. On June 17, 2021, Chief Judge Walker issued an order (Order on Motions to Consolidate, *League of Women Voters of Florida, Inc. v. Lee*, No. 4:21-cv-00186-MW-MAF (June 17, 2021), ECF No. 92) consolidating the *League of Women Voters*, *NAACP*, and *Harriet Tubman* cases before him for discovery purposes. *Id.* at 1. As to this matter, Chief Judge Walker denied the motion without prejudice on the ground that “[t]hat case is not before this Court.” *Id.* at 3. Chief Judge Walker directed that the Parties “may move to transfer that case and Judge Winsor will decide the issue.” *Id.*

ARGUMENT

A district court may transfer a case for the convenience of the parties and witnesses, and in the interest of judicial economy and justice. *See generally Robinson v. Giarmarco & Bill, P.C.*, 74 F.3d 253, 260 (11th Cir. 1996); *see also Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495 (11th Cir. 1985) (a district court has “inherent managerial power to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants”) (internal quotation marks and citations omitted).

“A primary component of the ‘interests of justice’ factor is ‘the desire to avoid multiplicity of litigation as a result of a single transaction or event.’” *Florida v. Jackson*, No. 3:10cv503/RV/MD, 2011 WL 679556, at *3 (N.D. Fla. Feb. 15, 2011) (quoting 15 Charles A. Wright, Arthur R. Miller & Edward H. Cooper, Federal

Practice and Procedure § 3854 at 250 (3d ed. 2007)). When multiple cases with “obviously substantial overlap between them” are pending in the same district, risking “separate and potentially inconsistent findings of fact and conclusions of law in closely-related actions,” courts have discretion to transfer later-filed cases so that they may be “handled by the judge who has already been handling the related cases.” *Id.* at *4. Such a transfer is “[i]n the interests of justice” and “promote[s] judicial economy and consistency.” *Id.*

Transferring this case to Chief Judge Walker will be far more convenient for the parties and witnesses, will serve judicial economy, and is in the interests of justice.

1. The instant case and the three pending cases before Chief Judge Walker overlap substantially. As Defendant Lee wrote in her motion to consolidate, “[a]ll four cases have overlapping issues of law and fact.” ECF 39 at 1. Specifically, all four cases challenge the constitutionality of provisions of S.B. 90, and name common defendants:

- The *League of Women Voters* suit challenges, *inter alia*, S.B. 90 Sections 7, 28 and 29, three of the statutory provisions challenged in this matter;
- The *NAACP* suit challenges, *inter alia*, S.B. 90 Sections 24, 28, and 29, three of the statutory provisions challenged in this matter;

- The *Harriet Tubman* suit challenges S.B. 90 Section 7, which is also challenged in this matter;
- All four suits assert claims under the First and Fourteenth Amendments;
- This matter and the *NAACP* suit raise claims under the Voting Rights Act of 1965, 52 U.S.C. § 10301 *et seq.*; and
- All four of the suits name Florida Secretary of State Laurel M. Lee and some or all of Florida’s Supervisors of Elections as Defendants.

2. Transfer of this case to Chief Judge Walker will facilitate coordination of discovery and other proceedings. As Defendant Lee recognized in her motion to consolidate, having all four cases together is “necessary to ensure the timely and efficient resolution of the cases through a uniform discovery schedule and a single trial,” and “the deadlines in all four actions should be aligned” in light of “the various overlapping claims.” ECF 39 at 2-3. Chief Judge Walker has already ordered that the other three matters presently before him be coordinated for discovery and proceed on a common schedule. Transferring this case so that it can be consolidated with the three other matters will thus reduce the risk that Defendants and third parties will be subject to additional discovery demands, including depositions.

3. Transfer of this case to Chief Judge Walker will also conserve judicial resources, as the cases present overlapping legal theories. As Defendant Lee recognized in her motion to consolidate, “[c]ommon questions of law and fact

permeate all four actions, and consolidation would therefore further judicial economy.” ECF 39 at 3. In ordering consolidation of the three matters before him, Chief Judge Walker indicated that judicial economy would also be served by coordination and consolidation between the actions.

Conversely, judicial economy would not be served by having this case proceed on a separate track. For starters, this Court would likely have to decide issues that Chief Judge Walker will necessarily have to decide in his consideration of the three cases before him. Avoiding such duplicative efforts is one of the primary reasons the Eleventh Circuit encourages consolidation of similar cases to “eliminate unnecessary repetition and confusion.” *Eghnayem v. Boston Sci. Corp.*, 873 F.3d 1304, 1314 (11th Cir. 2017) (citation omitted). Transferring this case to allow consolidation with the three similar matters pending before Chief Judge Walker would thus promote judicial economy.

CONCLUSION

Plaintiffs respectfully request that this Court transfer this action to Chief Judge Walker so that it can be consolidated with the three related cases.

Dated: June 21, 2021

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(B)

Consistent with Local Rule 7.1(B), counsel for Plaintiffs conferred with counsel for Defendants regarding this motion. This motion is unopposed by Defendants Ogg, Knight, Arrington, and Latimer. Defendant Lee takes no position.

s/ John A. Freedman

LOCAL RULE 7.1(F) CERTIFICATION

Pursuant to Local Rule 7.1(F), this Motion and memorandum contain 1,386 words, excluding the case style, signature block, and certificate of service.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on all counsel of record through the Court's CM/ECF system on the 21st of June, 2021.

s/ *John A. Freedman*
Attorney for Plaintiffs