

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

HISPANIC FEDERATION, *et al.*,

Plaintiffs,

v.

CORD BYRD, *etc., et al.*,

Defendants.

Case No. 4:23-cv-218-AW-MAF

PLAINTIFFS' MOTION TO CONSOLIDATE ACTION

Pursuant to Federal Rule of Civil Procedure 42, Plaintiffs move to consolidate this action with No. 4:23-cv-215-MW-MAF, the first-filed of two recently-filed cases that are closely related to this case. Plaintiffs' counsel conferred with counsel for the Defendants. The Attorney General does not object to this Motion. The Secretary of State opposes the Motion.

For the reasons set forth in the following Memorandum, consolidation with 4:23-cv-215-MW-MAF is very much in the interest of judicial economy and will preserve the precious resources of the parties as well. Plaintiffs respectfully request the Court consolidate this action with No. 4:23-cv-215-MW-MAF.

MEMORANDUM

On May 24, 2023, one day prior to the filing of this action, a separate action entitled *Florida State Conference of Branches and Youth Units of the NAACP, et al.*

v. Byrd, et al., No. 4:23-cv-215-MW-MAF, was filed in this District. Later that afternoon, another action, entitled *League of Women Voters of Florida, Inc., et al. v. Moody, et al.*, No. 4:23-cv-216-RH-MAF, was filed in this District. On May 26, the judge presiding over *League of Women Voters* ordered that case reassigned to the judge presiding over the *NAACP* matter. No. 4:23-cv-216-RH-MAF, ECF No. 8.

At the time of filing, Plaintiffs designated this case as related to the *NAACP* and *League of Women Voters* cases (ECF No. 2) and filed a notice pursuant to Local Rule 5.6 indicating this case involves issues of fact and law in common with the *NAACP* and *League of Women Voters* cases (ECF No. 4).

The instant case and the two previously filed pending cases in this district overlap in significant part in that:

- All three suits name Secretary of State Byrd and Attorney General Moody as Defendants;
- All three suits challenge the constitutionality of provisions of Florida's newly enacted election law, Senate Bill 7050;
- All three suits specifically challenge the newly enacted Fla. Stat. § 97.0575(1)(f), which requires each third-party voter registration organization operating in Florida to provide an affirmation to the State that each person collecting or handling voter registration applications is a U.S. citizen;

- All three suits challenge this provision as an infringement of Plaintiffs’ rights under the First and Fourteenth Amendments.

Under Federal Rule of Civil Procedure 42(a), a district court may consolidate multiple actions involving “common question[s] of law or fact.” Courts have broad discretion to determine whether and to what extent consolidation is appropriate. *See Eghnayem v. Boston Sci. Corp.*, 873 F.3d 1304, 1313 (11th Cir. 2017). In exercising discretion, the district court “must determine ‘[w]hether the specific risks of prejudice and possible confusion [are] overborne by the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of the single-trial, multiple-trial alternatives.’” *Allstate Ins. Co. v. Vizcay*, 826 F.3d 1326, 1333 (11th Cir. 2016) (quoting *Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495 (11th Cir. 1985)).

In the Eleventh Circuit, district courts are “urged to make good use of Rule 42(a) in order to expedite the trial and eliminate unnecessary repetition and confusion.” *Id.* at 1314. And when multiple substantially similar cases are filed within the same division, this court has a “long-standing policy of consolidating all such cases before the judge handling the first-filed one.” *Florida v. Jackson*, No. 3:10-cv-503-RV-MD, 2011 WL 679556, at *1 (N.D. Fla. Feb. 15, 2011).

In the interest of efficiency, Plaintiffs respectfully request that this Court consolidate this matter with No. 4:23-cv-215-MW-MAF, the first-filed case. Allowing the three cases to proceed in a consolidated manner would be in the interests of judicial economy. Each of the three cases is currently in the same stage of the litigation—only the complaints have been filed—and the factual and legal issues asserted are substantially overlapping, which diminishes any material risk of prejudice, confusion, or burden to the parties that consolidation might impose. Litigating these cases separately, in contrast, would require “wasteful litigation and duplication of judicial efforts.” *Vizcay*, 826 F.3d at 1333–34. The length of time to conclude three separate suits on these overlapping issues, and the best use of judicial resources and the resources of all parties and witnesses involved, all further counsel in favor of consolidating this case with the first-filed matter.

LOCAL RULE 7.1(C) CERTIFICATE OF CONFERRAL

On May 30, 2023, counsel conferred with counsel for both Defendants. The Attorney General does not object to this Motion. The Secretary of State opposes the Motion.

LOCAL RULE 7.1(F) CERTIFICATE

This Memorandum contains 626 words.

Respectfully submitted this 30th day of May, 2023,

/s/ Nicholas L.V. Warren

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** Motion for leave to appear pro hac vice forthcoming*

CERTIFICATE OF SERVICE

The foregoing motion for consolidation and supporting memorandum have been served on Counsel for Defendants via the following email addresses:

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Dated: May 30, 2023

Respectfully submitted,

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