

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

LEAGUE OF WOMEN VOTERS OF
FLORIDA, INC., THE ANDREW
GOODMAN FOUNDATION, INC.,
MEGAN NEWSOME, AMOL
JETHWANI, MARY ROY a/k/a JAMIE
ROY, DILLON BOATNER,
ALEXANDER ADAMS, AND ANJA
RMUS,

Plaintiffs,

v.

KENNETH DETZNER, in his official
capacity as the Florida Secretary of State,

Defendant.

Case No. 4:18-cv-00251-MW-CAS

**SECRETARY'S MOTION TO HOLD CASE
IN ABEYANCE UNTIL NOVEMBER 30, 2018**

Defendant, Secretary of State Kenneth Detzner, asks this Court to hold the case in abeyance until November 30, 2018. In support, the Secretary states:

1. The State's Division of Elections and the State's 67 Supervisors of Elections have much to do between now and the end of November. *See generally* ECF 43-6 (Matthews Declaration). Early voting for the August 28, 2018 Primary Election has begun. Preparations for the November 6, 2018 General Election are underway as well.

2. In addition, the Secretary is defending multiple election-related lawsuits. Some of these cases are pending before the Florida Supreme Court. *See*

Detzner v. Florida Greyhound Association, Inc., SC18-1287; *County of Volusia, et al. v. Detzner*, SC18-1339; *Anstead v. Detzner*, SC18-1344. Others are before the Leon County Circuit Court and the First District Court of Appeal. *See Detzner v. League of Women Voters, et al.*, 1D18-3529; *Hollander v. Detzner*, 2018-CA-001525; *League of Women Voters, et al. v. Detzner*, 2018-CA-001523. One is before this Court. *See Madera, et al. v. Detzner, et al.*, Case No. 1:18-cv-00152. All are expected to be resolved before the November 6, 2018 General Election.

3. Staff turnover is also underway. The Secretary's General Counsel and lead-litigator, David Fugett, will leave his post at the end of the month. The Secretary's other in-house election litigator, Jesse Dyer, will leave as well; his last day will be September 7, 2018.

4. A companion case involving the same counsel for Plaintiffs has already been held in abeyance until November 30, 2018. *See Jacobson, et al. v. Detzner, et al.*, Case No. 4:18-cv-00262-MW-CAS at ECF 81.

5. A similar abeyance here would allow the Secretary and his staff to (1) focus on their duties for the upcoming elections; (2) focus on defending cases that must be resolved before the November 6, 2018 General Election, and complying with any relief ordered in those cases; (3) address the known unknowns that arise on or shortly after election-day, like requests to keep polls open or recounts; and

(4) otherwise provide Mr. Fugett's successor an opportunity to become familiar with the case so that s/he may provide informed direction to the undersigned.

6. By contrast, a stay would not prejudice the Plaintiffs. The Division of Elections has already "rescinded" the 2014 Advisory Opinion at the heart of the case. ECF 68 at 3.

7. The Plaintiffs might protest that the abeyance would delay the award of attorney's fees to which they believe themselves entitled under 42 U.S.C. § 1988. The Secretary – together with the State's Division of Risk Management – intends to negotiate in good faith concerning this matter. Only the Secretary cannot do so now. *See supra*.

8. In short, a short abeyance until after the November 6, 2018 General Election would allow the Secretary and his staff to focus on their pending obligations, further the public interest, and result in no prejudice to the Plaintiffs.

WHEREFORE the Secretary asks this Court to hold the case in abeyance until November 30, 2018.

CERTIFICATE OF COMPLIANCE WITH LOCAL RULES

The undersigned certifies that he conferred with counsel for the Plaintiffs regarding this filing. The Plaintiffs "do not oppose abeyance with the exception of the fee issue." As it relates to the attorney's fees issue, the Plaintiffs "intend to file an expedited opposition to abeyance . . . by Monday, August 27."

The undersigned further certifies that this Reply complies with the size, font, and formatting requirements of Local Rule 5.1(C), and that this Reply complies with the word limit in Local Rule 7.1(F); this Motion contains 519 words, excluding the case style, signature block, and certificates.

Respectfully submitted by:

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Dated: August 24, 2018

Counsel for the Secretary of State

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via transmission of a Notice of Electronic Filing through the Court's CM/ECF system to the following on this 24th day of August, 2018:

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