

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

WILLIAM DESENA &)	
SANDRA DUNHAM,)	
)	
Plaintiffs,)	
)	Docket No.
v.)	1:11-cv-117-GZS-DBH-BMS
)	
STATE OF MAINE et al.,)	
)	
Defendants.)	

SCHEDULING ORDER

The three-judge panel held an initial conference of counsel on April 27, 2011 in order to discuss how to best expedite the disposition of this matter. At the conference, Attorney Timothy Woodcock appeared for Plaintiffs; Maine Deputy Attorney General Paul Stern along with Maine Assistant Attorney General Phyllis Gardiner appeared for Defendants; and Attorney Janet Mills appeared for Intervenor Defendant.

At the conference, the panel orally granted without objection the pending Motion to Intervene (Docket # 8) by the Maine Democratic Party. Additionally, Defendants, through their counsel, waived the notice requirement contained in 28 U.S.C. § 2284(b)(2).

For case management purposes, this case is assigned to the complex track in accordance with District of Maine Local Rule 16.1. To the extent the parties have non-dispositive matters that need to be addressed by a judicial officer, those matters will be handled primarily by Judge Singal in accordance with 28 U.S.C. § 2284(b)(3).

As discussed at the conference, the panel believes the interests of all parties are best served by initially bifurcating this case into a “liability” phase and a “remedy” phase.

This scheduling order pertains only to the first “liability” phase. In this first phase, the panel will seek to decide two legal questions:

First, is Maine’s apportionment scheme, as laid out in the Maine Constitution and relevant state statutes, unconstitutional per se with respect to Congressional districts?

Second, having received the relevant 2010 Census data, is it unconstitutional for Maine not to engage in redistricting of its Congressional districts prior to the 2012 election cycle?

In answering these two questions, the panel will necessarily consider the constitutionality of: (1) any difference in population between Maine’s two Congressional districts and (2) the timing of Maine’s reapportionment process.

With the agreement of the parties, the Court hereby lays out the following schedule for the first phase of these proceedings:

Stipulations: All parties agreed that no discovery was necessary in the first phase. In lieu of conducting any discovery, the parties shall confer and draft a single set of stipulated facts. The stipulations shall be jointly submitted to the Court on or before May 20, 2011 at noon.

Opening Briefs: The parties shall each submit a brief addressing the legal questions laid out above on or before May 20, 2011 at noon. Each brief shall not exceed 30 pages and otherwise comply with the filing requirements contained in District of Maine Local Rule 7(e) & Appendix IV. To the extent that there are any remaining questions regarding the Court’s jurisdiction to decide the legal questions presented in the

first phase of these proceedings, the parties shall include any jurisdictional arguments in their opening briefs.

Reply Briefs: Each party may submit a reply brief on or before May 31, 2011 at noon. Each reply brief shall not exceed 10 pages and otherwise comply with the filing requirements contained in District of Maine Local Rule 7(e) & Appendix IV.

Oral Argument: After reviewing the submitted briefs, the three-judge panel will hold oral argument on June 9, 2011 at 11:00 A.M. Each party shall have thirty minutes for oral argument. The order of oral argument shall be: Plaintiffs, Defendants, and finally, Intervenor Defendant. Plaintiffs then will have an additional ten minutes for rebuttal.

Exhibits: The panel does not anticipate necessarily needing any exhibits. Exhibits shall generally be filed via ECF in accordance with the District of Maine Local Rules Appendix IV. To the extent that paper exhibits are filed or otherwise presented at oral argument, three courtesy copy sets of these exhibits shall be delivered to the Clerk's Office no later than June 2, 2011. Each set of exhibits shall be in a tabbed binder with an appropriate table of contents. Additionally, counsel shall provide the Clerk's Office with an additional electronic copy of any paper exhibits on CD.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 28th day of April, 2011.