

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
Civil Action No. 5:18-cv-366

JAMES ALLEN POINDEXTER, JERRY
JONES, GREGORY HOLT, and THE
CONSTITUTION PARTY OF NORTH
CAROLINA,

Plaintiffs,

v.

KIM WESTBROOK STRACH, in her official
capacity as the Executive Director of the North
Carolina State Board of Elections and Ethics
Enforcement,

Defendant.

MOTION TO EXTEND TIME
TO RESPOND TO THE
COMPLAINT
(Fed. R. Civ. P. 6(b)(1)(A))

NOW COMES defendant, by and through undersigned counsel, and without waiving any defense available to her, move the Court pursuant to Rule 6(b) of the Federal Rules of Civil Procedure to extend the time within which defendant must answer or otherwise respond to plaintiffs' complaint for an additional thirty-nine (39) days.

In support thereof, defendant shows the Court that:

1. On 20 July 2018, plaintiffs filed its complaint against defendant in the United States District Court for the Eastern District of North Carolina. By this action, plaintiffs challenge 2018 North Carolina Session Law 2018-13, § 3.4, effective June 20, 2018, ("S.L. 2018-13"), as unconstitutional as applied to them.
2. On 23 July 2018, summonses were issued by the Court.

3. On or about 2 August 2018, the summonses and complaint were delivered by mail addressed to defendant at the North Carolina State Board of Elections and Ethics Enforcement. As a result, defendant is currently required to answer or otherwise respond to the complaint on or before 23 August 2018.

4. The time for defendant to answer or otherwise respond to the complaint has not yet expired.

5. On 22 August 2018, this Court granted a preliminary injunction to plaintiffs granting plaintiffs the relief they seek in their complaint.

6. Defendant has not previously requested an extension of time to serve an answer or otherwise respond to the complaint.

7. Had plaintiff requested waiver of service as contemplated by Rule 4(d) of the Federal Rules of Civil Procedure, defendant would have had sixty (60) days rather than twenty-one (21) days in which to answer or otherwise respond to the complaint.

8. Defendant is currently involved in numerous other matters in both state and federal courts challenging various aspects of the ballot for the upcoming November 2018 election, and appeals thereof, as well as redistricting matters with depositions scheduled over the next two weeks. Additional time is needed to evaluate the allegations specific to this action and the recent injunction, consult with the defendant and other interested parties, and to determine the appropriate response.

9. Defendant makes this motion in good faith and not for the purpose of delay.

10. The undersigned attempted to confer with opposing counsel by phone and by email, but have not received a response as of the filing of this motion.

WHEREFORE, defendants move the Court for an extension of time, up to and including 1 October 2018 in which to serve Answers or otherwise respond to the plaintiffs' complaint.

Respectfully submitted this 22nd day of August, 2018.

JOSHUA H. STEIN
Attorney General

/s/ Amar Majmundar
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N.C. Department of Justice
Post Office Box 629
Raleigh, NC 27602

CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing Motion to Extend with the clerk of Court using the CM/ECF system which will send notification of such to all counsel of record in this matter, including:

S. Mark Henkle
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This the 22nd day of August, 2018.

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ORDER

(Fed. R. Civ. P. 6(b)(1)(A))

This matter is before the court to extend the time of defendant KIM WESTBROOK STRACH, in her official capacity as Executive Director of the North Carolina State Board of Elections and Ethics Enforcement, to answer or otherwise respond to the plaintiffs' Verified Complaint.

Based on the representations to the court and for good cause shown,

IT IS THEREFORE ORDERED, that the time for defendant to answer or otherwise respond to the plaintiffs' Verified Complaint, is hereby extended through and including _____, 2018.

This the ____ day of _____, 2018.

United States District Judge