

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA**

EQUALITY FLORIDA; FAMILY
EQUALITY; M.A., by and through
his parent AMBER ARMSTRONG;
ZANDER MORICZ; LINDSAY
MCCLELLAND, in her personal
capacity and as next friend and
parent of JANE DOE; RABBI AMY
MORRISON and DR. CECILE
HOURY; DAN and BRENT
VANTICE; LOURDES CASARES
and KIMBERLY FEINBERG;
LINDSEY BINGHAM SHOOK; and
ANITA HATCHER POWDERLY,

Plaintiffs,

v.

RONALD D. DESANTIS, in his
official capacity as Governor of
Florida; FLORIDA STATE BOARD
OF EDUCATION; THOMAS R.
GRADY, BEN GIBSON,
MONESIA BROWN, ESTHER
BYRD, GRAZIE P. CHRISTIE,
RYAN PETTY, and JOE YORK, in
their official capacities as members
of the Board of Education;
RICHARD CORCORAN, in his
official capacity as Commissioner of
Education of Florida; FLORIDA
DEPARTMENT OF EDUCATION;
SCHOOL BOARD OF MANATEE
COUNTY; SCHOOL BOARD OF
SARASOTA COUNTY; SCHOOL
BOARD OF MIAMI-DADE
COUNTY; ST. JOHNS COUNTY

Civil Action No. 4:22-cv-0134-
AW-MJF

SCHOOL BOARD; and JACKSON
COUNTY SCHOOL BOARD;

Defendants.

**MOTION TO ESTABLISH A LITIGATION SCHEDULE
AND FOR A RULE 16 CONFERENCE**

Pursuant to this Court’s Order dated April 21, 2022 (ECF 33) (the “April 21 Order”), Plaintiffs respectfully move for the entry of a coordinated litigation schedule—and, if Defendants oppose this motion, a Rule 16 conference—in order to ensure efficient, economical, and sensible proceedings following Plaintiffs’ forthcoming submission of an amended complaint on May 25, 2022.

BACKGROUND

On April 20, 2022, Defendants filed an unopposed motion for an extension of time in light of Plaintiffs’ stated intention to file an amended complaint. *See* ECF 32 at 1. In that motion, Defendants added: “Defendants also note that Plaintiffs have proposed a schedule of further deadlines, which is under consideration.” *Id.* at 2. As Plaintiffs explained in that same filing, the “litigation should be conducted in a coordinated and efficient manner, especially given the number of parties and the complexity of the issues involved.” *Id.* To achieve those goals, Plaintiffs had “made a comprehensive scheduling proposal to Defendants addressing Defendants’ anticipated motions to dismiss, Plaintiffs’ anticipated preliminary injunction motion, and limited discovery (if any) relating to issues such as the expert testimony to be

submitted by Plaintiffs in connection with their motion for a preliminary injunction.”

Id.

On April 21, 2022, the Court granted Defendants’ motion, providing that Plaintiffs have until May 25, 2022, to file an amended complaint and to join any new defendants, and that Defendants have until June 27, 2022 to respond to the amended complaint. ECF 33. The Court added: “The motion indicates that Plaintiffs anticipate moving for preliminary injunctive relief and for related discovery. The parties must confer regarding that scheduling, and any party may move at any time for entry of a litigation schedule.” *Id.*

Pursuant to the April 21 Order, on April 25, 2022, counsel for Plaintiffs wrote to counsel for Defendants to request a response to their outstanding scheduling proposal. *See* Ex. A. On April 27, 2022, counsel for Defendants responded by saying that they were not willing to confer at that time with respect to any issue other than the dates already agreed upon since they wished to proceed expeditiously with their motion to dismiss and opposed discovery pending its resolution. *Id.* While counsel for Defendants generally expressed openness to discuss consolidating litigation of the motion to dismiss and the preliminary injunction motion (presumably at some point in the future), they did not respond to the proposal from Plaintiffs concerning a comprehensive schedule, and they refused to respond to Plaintiffs’ proposal concerning a discovery schedule relating to Plaintiffs’

anticipated preliminary injunction motion (notwithstanding multiple communications from Plaintiffs' counsel that Plaintiffs intend to rely on both fact and expert evidence to support their request for preliminary injunctive relief). *Id.*

On May 4, 2022 (and on May 6, 2022), Defendants communicated their position that the deadline for the Rule 26(f) conference should be extended until "a couple of weeks after the amended complaint is served to allow any newly added plaintiffs and defendants to participate." *Id.* In so doing, Defendants again failed to respond to Plaintiffs' proposal concerning the entry of a litigation schedule to govern the proceedings ahead, and once again made clear their unwillingness to engage at this point in any conversation with Plaintiffs about such a schedule. *Id.*

While we cannot be 100% sure of the rationale for Defendants' thinking, we assume they believe that the Court need never address the merits of the arguments Plaintiffs will make in connection with their motion for a preliminary injunction due to their view (not ours) of the strength of their arguments on their anticipated motion to dismiss. While it is customary for parties in litigation to have confidence in their arguments, counsel for Plaintiffs have never encountered a situation where Defendants refused to even discuss a schedule assuming their position does not prevail.

ARGUMENT

Following submission of the Amended Complaint on May 25, 2022, Plaintiffs will seek a preliminary injunction and Defendants will file a motion to dismiss. There will be substantial overlap in the issues raised by these filings—particularly as between Defendants’ legal arguments for dismissal and Plaintiffs’ arguments concerning a substantial likelihood of success on the merits of their claims. As a matter of efficiency and economy, these motions should be briefed and resolved in a coordinated manner. Such coordination would reduce the total number of party and amicus briefs, streamline the presentation of the issues, and facilitate the Court’s decisional process. It would also tee up both motions early in the upcoming school year. But Defendants have refused to engage in any substantive discussion of a comprehensive schedule, instead emphasizing only their intention to file a motion to dismiss and their view that no merits discovery is warranted pending disposition of that motion. Their position leaves Plaintiffs with no choice but to file this motion seeking entry of a schedule.

The importance of a comprehensive litigation schedule here is only amplified by a further point: as Plaintiffs’ counsel have repeatedly communicated to Defendants’ counsel, Plaintiffs intend to rely on fact and expert evidence to establish that a preliminary injunction is warranted. Defendants’ counsel have thus far refused to indicate whether they intend to rely on fact or expert evidence of their own in

opposing Plaintiffs' motion. To the extent the parties wish to undertake any discovery (*e.g.*, depositions) related specifically to the evidence they will put forth during the preliminary injunction proceedings, that should obviously occur *before* rather than after briefing on Plaintiffs' preliminary injunction motion. That way, the briefs that the parties submit to the Court will address a complete evidentiary record, and the motions can be briefed together with maximal efficiency, instead of a burdensome and awkward (and exceptionally irregular) process in which parties leave open the possibility of requesting depositions *after* preliminary injunction briefs have already been filed. *See Dream Defs. v. DeSantis*, 559 F. Supp. 3d 1238 n.9 (N.D. Fla. 2021) (“[T]his Court routinely allows for limited discovery ahead of preliminary-injunction hearings and hears live witness testimony at such hearings.” (collecting cases)); *see also Klay v. All Defendants*, 425 F.3d 977, 982 (11th Cir. 2005) (“A district court is ‘entitled to broad discretion in managing pretrial discovery matters.’” (citation omitted)); *Mullane v. Almon*, 339 F.R.D. 659, 663 (N.D. Fla. 2021) (“Because of the expedited nature of injunctive proceedings, expedited discovery is more likely to be appropriate when a plaintiff is seeking a preliminary injunction.” (citation omitted)).

Accordingly, for the reasons set forth above, Plaintiffs respectfully propose the following schedule:

- **May 25, 2022:** Deadline for Plaintiffs to file an amended complaint and to add/drop parties.

- **June 27, 2022:** Deadline for Defendants to respond to the amended complaint, and deadline for Plaintiffs to disclose to Defendants the identity of all fact and expert witnesses on whom they intend to rely in seeking preliminary injunctive relief, including appropriate disclosures for any expert witnesses.
- **July 6, 2022:** Deadline for Defendants to disclose to Plaintiffs the identity of all fact and expert witnesses on whom they intend to rely in opposing preliminary injunctive relief.
- **July 11, 2022, to August 5, 2022:** Period in which the parties must complete depositions of any fact or expert witnesses on whom they will rely in the preliminary injunctive proceedings.
- **August 16, 2022:** Deadline for Plaintiffs to file a combined brief in support of their motion for a preliminary injunction and in opposition to Defendants' motion to dismiss.
- **September 16, 2022:** Deadline for Defendants to file a combined brief opposing Plaintiffs' motion for a preliminary injunction and replying to Plaintiffs' opposition to their motion to dismiss.
- **September 30, 2022:** Deadline for Plaintiffs to submit a reply brief in support of their motion for a preliminary injunction.

This schedule reflects Plaintiffs' efforts to accommodate Defendants' views on the schedule while also ensuring sufficient time for limited discovery and an expedited opportunity for Plaintiffs to be heard on their preliminary injunction motion.

To the extent Defendants oppose this motion, or the Court has any questions about Plaintiffs' proposed schedule, Plaintiffs further request that the Court set a scheduling conference pursuant to Federal Rule of Civil Procedure 16.

CERTIFICATE OF COUNSEL UNDER LOCAL RULE 7.1(B)

Pursuant to Local Rule 7.1(B), the undersigned certifies that counsel for Plaintiffs made several attempts to confer with Defendants concerning the foregoing issues, including by telephone on April 14, 2022, and subsequent attempts to resolve the issue by email, as set forth in Plaintiffs' motion. Defendants have refused to engage in discussions with Plaintiffs concerning Plaintiffs' proposals regarding the entry of a comprehensive litigation schedule in this case.

Dated: May 8, 2022

/s/ Roberta Kaplan
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John Quinn
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forthcoming*)
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mweaver@mwe.com

Attorneys for Plaintiffs

Exhibit A

From: [Daniel Bell](#)
To: [Joshua Matz](#); [Henry Whitaker](#); [James Percival](#); [Bilal Faruqui](#); [Anita Patel](#)
Cc: [Roberta Kaplan](#); [Kate L. Doniger](#); [John Quinn](#); [D. Brandon Trice](#); [SMinter](#); [ejackson@johnsonjackson.com](#); "Bob Harris"; [agallagher@johnsonjackson.com](#); [Garcia, Luis M.](#); "henrysuarez@dadeschools.net"; [MADRIGAL, JORDAN A](#); [jgrosholz@rumberger.com](#); [James Dean](#); [Cameron Carstens](#); [H. Matthew Fuqua](#); "DeLeo, Daniel J."; [Duggan, Patrick J.](#); [Amber Hopkins](#); [Marsey, David](#)
Subject: Re: Equality Florida v. DeSantis
Date: Wednesday, April 27, 2022 6:23:19 PM

This email was sent from outside the Firm.

Hi Joshua,

I'm writing on behalf of the state defendants as well as the school board defendants, except for Manatee County, as I have not heard from Manatee. Our position is as follows:

We believe the case is likely to be resolved on the pleadings and plan to proceed expeditiously with a motion to dismiss after your amended complaint is served. Of course, other things being equal, we'd be happy to consolidate the litigation of our motion to dismiss with deadlines governing your preliminary injunction motion, but we aren't willing to delay our motion and we oppose discovery pending its resolution.

Thanks,
Daniel

From: Joshua Matz <jmatz@kaplanhecker.com>
Sent: Monday, April 25, 2022 4:08 PM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>
Cc: Roberta Kaplan <rkaplan@kaplanhecker.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>; D. Brandon Trice <btrice@kaplanhecker.com>; SMinter <sminter@nclrights.org>
Subject: RE: Equality Florida v. DeSantis

Dear Daniel,

I hope you're well. I write to follow up on our conversation. You've now had our proposed schedule since last Tuesday, and have thus had time to confer with your clients. We therefore respectfully request a response to our proposal from the State Defendants by Wednesday.

Thank you,
Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

1050 K Street NW | Suite 1040
Washington, DC 20001
(W) 929.294.2537
jmatz@kaplanhecker.com

From: Daniel Bell <Daniel.Bell@myfloridalegal.com>
Sent: Wednesday, April 20, 2022 3:39 PM
To: Joshua Matz <jmatz@kaplanhecker.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>
Cc: Roberta Kaplan <rkaplan@kaplanhecker.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>; D. Brandon Trice <btrice@kaplanhecker.com>; SMinter <sminter@nclrights.org>
Subject: Re: Equality Florida v. DeSantis

This email was sent from outside the Firm.

Thanks, Joshua. We have no problem including your position. Hope you have a nice flight.

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From: Joshua Matz <jmatz@kaplanhecker.com>
Sent: Wednesday, April 20, 2022 3:31 PM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>
Cc: Roberta Kaplan <rkaplan@kaplanhecker.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>; D. Brandon Trice <btrice@kaplanhecker.com>; Shannon Minter <SMinter@nclrights.org>
Subject: Re: Equality Florida v. DeSantis

Hi Daniel,

If you will agree to include the paragraph below as a statement of our position, we will not object to your draft motion.

If you decline to include it, we will file a response setting forth our position.

Rather than needlessly burden the Court here, I am hopeful that you will simply include our position in your motion.

Joshua

*** Statement of our position ***

Plaintiffs state as follows: "This litigation should be conducted in a coordinated and efficient manner,

especially given the number of parties and the complexity of the issues involved. Accordingly, we have made a comprehensive scheduling proposal to Defendants addressing Defendants' anticipated motions to dismiss, Plaintiffs' anticipated preliminary injunction motion, and limited discovery (if any) relating to issues such as the expert testimony to be submitted by Plaintiffs in connection with their motion for a preliminary injunction. Thus far, Defendants have not responded to our proposal. If the parties are unable to reach agreement in a timely manner, we will respectfully request a scheduling conference with the Court so that a schedule can be worked out to allow this case to proceed in an orderly manner."

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From: Daniel Bell <Daniel.Bell@myfloridalegal.com>
Sent: Wednesday, April 20, 2022 11:51:14 AM
To: Joshua Matz <jmatz@kaplanhecker.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>
Cc: Roberta Kaplan <rkaplan@kaplanhecker.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>; D. Brandon Trice <btrice@kaplanhecker.com>
Subject: Re: Equality Florida v. DeSantis

This email was sent from outside the Firm.

Joshua,

Thanks for letting me know. Attached is a proposed motion. We simply do not have client consent at this time to commit to any subsequent filing (such as a proposed schedule). The note at the end is the best I can do right now. If you oppose any of the relief sought, let me know. We need to run this by the school board defendants as well, so I plan to give them a couple of hours to review.

Thanks,
Daniel

From: Joshua Matz <jmatz@kaplanhecker.com>
Sent: Wednesday, April 20, 2022 1:04 PM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>
Cc: Roberta Kaplan <rkaplan@kaplanhecker.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>; D. Brandon Trice <btrice@kaplanhecker.com>
Subject: RE: Equality Florida v. DeSantis

Daniel

A quick follow up note to mention that I'll be flying from LA to DC in just a couple hours, potentially without (or with limited) internet access, so I won't be available if you try to reach me directly.

My colleagues (copied here) will be available.

Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

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Washington, DC 20001
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jmatz@kaplanhecker.com

From: Joshua Matz

Sent: Wednesday, April 20, 2022 11:37 AM

To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org; liz@elizabethschwartz.com; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>

Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com; ejackson@johnsonjackson.com; imgarcia2@dadeschools.net; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>

Subject: RE: Equality Florida v. DeSantis

Dear Daniel,

We all agree that Plaintiffs will file an amended complaint by May 25 and that there is no need for defendants to answer or respond to the current complaint; we are happy to stipulate to that. We are also happy to proactively extend your time to respond to thirty days after our amended complaint. But as we have repeatedly explained, we should develop a more comprehensive schedule (including dates beyond the opening briefs), and the motion to dismiss and the motion for a preliminary injunction should be briefed in a coordinated way. Indeed, as you recognized on our call last week, it seems safe to assume that many if not all of the arguments you will make on your motion to dismiss would also be included in the "likelihood of success" section of your opposition to our motion for a preliminary injunction. In addition, to work out such a coordinated schedule, we need to know (among other things) whether defendants want depositions of the experts who will submit affidavits in connection with our motion and will testify at an evidentiary hearing. It would make no sense for such discovery to occur *after* preliminary injunction motion papers have already

been filed, which is one reason why we think a coordinated schedule is essential.

As for what happens before May 25, we do not understand why a stay of proceedings is necessary when we've agreed (and would stipulate) that there's no need for Defendants to file a Rule 12 response before Plaintiffs file their amended complaint. My colleagues and I have never heard of parties staying a case at the outset (as you propose) when they have agreed on a date for an amended complaint. To the extent the Court wishes to schedule an initial conference over the coming month—and decides to do so with knowledge that Plaintiffs will file an amended complaint by May 25 and that the parties are negotiating a more comprehensive schedule—that is obviously within the Court's prerogatives, and we think that may be useful as we work this all out.

As for what happens after May 25, once again, we think it makes no sense in a case involving this many parties and these important issues to engage in piecemeal, haphazard litigation. That would needlessly burden the Court and the parties. As a result, we propose that we simply inform the Court that the parties are discussing a broader scheduling proposal concerning Defendants' anticipated motions to dismiss, Plaintiffs' anticipated preliminary injunction motions, and potential limited discovery related to the anticipated preliminary injunction proceedings, all of which the parties agree should be conducted in a coordinated and efficient manner.

Given the above, I'd propose that we file a joint submission today agreeing on a May 25 deadline for the amended complaint; memorializing Plaintiffs' stipulation that no response to the current complaint is required before then; and stating that the parties are discussing and will file with the Court either an agreed-to, proposed schedule governing the matters set forth above, or a proposed schedule noting the matters on which the parties agree and asking for the Court's guidance where (and if) there is disagreement.

If you agree to this, we can file jointly. Please share a proposed draft filing when you are able and we will review promptly.

If not, we are also prepared to review any statement of our position that you may wish to include in your submission. Ultimately, in that case, it may be necessary for us to make our own separate submission and to request a scheduling conference.

If the stumbling block here is that you cannot speak for all of the other Defendants, then we would at least request your position on behalf of the State Defendants.

Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

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jmatz@kaplanhecker.com

From: Daniel Bell <Daniel.Bell@myfloridalegal.com>

Sent: Wednesday, April 20, 2022 1:18 AM

To: Joshua Matz <jmatz@kaplanhecker.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org; liz@elizabethschwartz.com; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>

Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com; ejackson@johnsonjackson.com; imgarcia2@dadeschools.net; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>

Subject: Re: Equality Florida v. DeSantis

This email was sent from outside the Firm.

Thanks, Joshua. Sounds good.

From: Joshua Matz <jmatz@kaplanhecker.com>

Sent: Wednesday, April 20, 2022 12:26 AM

To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org <CStoll@nclrights.org>; liz@elizabethschwartz.com <liz@elizabethschwartz.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>

Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com <agallagher@johnsonjackson.com>; ejackson@johnsonjackson.com <ejackson@johnsonjackson.com>; imgarcia2@dadeschools.net <imgarcia2@dadeschools.net>; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net <jordanmadrigal@dadeschools.net>; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com <jgrosholz@rumberger.com>; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com <ccarstens@lawfla.com>; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com <pduggan@shumaker.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>

Subject: RE: Equality Florida v. DeSantis

Dear Daniel,

We will respond to this email by noon tomorrow (Wednesday).

Sincerely,

Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

1050 K Street NW | Suite 1040

Washington, DC 20001

(W) 929.294.2537

jmatz@kaplanhecker.com

From: Daniel Bell <Daniel.Bell@myfloridalegal.com>

Sent: Tuesday, April 19, 2022 11:58 PM

To: Joshua Matz <jmatz@kaplanhecker.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>;
CStoll@nclrights.org; liz@elizabethschwartz.com; Kate L. Doniger <kdoniger@kaplanhecker.com>;
John Quinn <jquinn@kaplanhecker.com>

Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>;
agallagher@johnsonjackson.com; ejackson@johnsonjackson.com; imgarcia2@dadeschools.net;
'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>;
jordanmadrigal@dadeschools.net; Marsey, David <dmarsey@rumberger.com>;
jgrosholz@rumberger.com; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>;
ccarstens@lawfla.com; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.'
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<Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry
Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival
<James.Percival@myfloridalegal.com>

Subject: Re: Equality Florida v. DeSantis

This email was sent from outside the Firm.

Hi Joshua,

I can't speak for the school boards, but haven't heard any objection to May 25 for the amended complaint. As for the rest of it, I'd propose something slightly different than what you described, a motion along the following lines:

- Plaintiffs plan to amend their complaint, including adding and dropping parties. The parties therefore seek the following relief:
- Plaintiffs shall amend their complaint by May 25. The deadline to add/drop parties is the same.
- Defendants shall respond to the amended complaint within 30 days.
- The case shall be otherwise stayed until the complaint is amended. (If we don't do this, other case-related deadlines like the 26(f) and scheduling conferences will come up when it makes no sense).
-

We're not prepared at this time to commit to a deadline for a proposed schedule, as we simply haven't had a chance to meaningfully discuss all this with our clients, and it's not clear that it makes sense to propose to a comprehensive schedule a full month before what will become the operative complaint is filed. We would be happy to note in the motion that the parties continue to discuss a schedule for other deadlines, including a briefing schedule for the

preliminary injunction. We're not prepared to agree to any preliminary injunction discovery at this time, but that's among the issues we'll continue to discuss. In all likelihood, I'll have a position for you on these issues within a couple of weeks at most, and certainly well in advance of the amended complaint.

In the meantime, we have a deadline to respond to the complaint coming up Thursday, so we plan to file a motion as described above tomorrow (Wednesday). Let us know your position and whether you'd like it to be a joint motion or filed only by us.

Thank you,

Daniel

From: Joshua Matz <jmatz@kaplanhecker.com>

Sent: Tuesday, April 19, 2022 5:52 PM

To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org <CStoll@nclrights.org>; liz@elizabethschwartz.com <liz@elizabethschwartz.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>; John Quinn <jquinn@kaplanhecker.com>

Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com <agallagher@johnsonjackson.com>; ejackson@johnsonjackson.com <ejackson@johnsonjackson.com>; lmgarci2@dadeschools.net <lmgarci2@dadeschools.net>; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net <jordanmadrigal@dadeschools.net>; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com <jgrosholz@rumberger.com>; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com <ccarstens@lawfla.com>; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com <pduggan@shumaker.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>

Subject: RE: Equality Florida v. DeSantis

Hi Daniel,

Thanks for this response. I'm glad we're agreed on May 25, 2022 for the filing of an amended complaint (and it's my understanding that you speak for all Defendants on this point).

Beyond that deadline, we expect that the Court would prefer the parties to submit a single proposed schedule covering the initial course of the litigation, rather than making piecemeal scheduling proposals. To that end, while we continue to discuss a more comprehensive schedule to govern discovery and motion practice after the amended complaint – a schedule that should address not only Defendants' responses to the amended complaint but also Plaintiffs' preliminary injunction motion (and associated discovery) – I'd suggest that we file a joint letter stating as follows:

- The parties jointly propose May 25, 2022 as the deadline for Plaintiffs to file an amended

complaint

- The parties agree that if the May 25, 2022 deadline is accepted, there's no need in the interim for Defendants to file Rule 12 responses to the original complaint
- The parties continue to discuss an appropriate scheduling proposal concerning discovery, filings, and a hearing for Plaintiffs' contemplated preliminary injunction motion and for Defendants' contemplated motions to dismiss
- The parties will submit a joint scheduling proposal to the Court by April 29, 2022

Is that approach agreeable to Defendants? If so, we'd be happy to prepare a draft letter for Defendants' review.

Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

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Washington, DC 20001
(W) 929.294.2537
jmatz@kaplanhecker.com

From: Daniel Bell <Daniel.Bell@myfloridalegal.com>
Sent: Tuesday, April 19, 2022 3:19 PM
To: Joshua Matz <jmatz@kaplanhecker.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org; liz@elizabethschwartz.com; Kate L. Doniger <kdoniger@kaplanhecker.com>
Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com; ejackson@johnsonjackson.com; imgarcia2@dadeschools.net; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; James Percival <James.Percival@myfloridalegal.com>
Subject: Re: Equality Florida v. DeSantis

This email was sent from outside the Firm.

Hi Joshua,

We'll need some time to discuss all this with our clients, but for now we can agree to the May 25 deadline and 30 days for us to respond to the amended complaint. Does that work?

Hope you had a nice Passover.

Daniel

From: Joshua Matz <jmatz@kaplanhecker.com>
Sent: Tuesday, April 19, 2022 12:36 AM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org <CStoll@nclrights.org>; liz@elizabethschwartz.com <liz@elizabethschwartz.com>; Kate L. Doniger <kdoniger@kaplanhecker.com>
Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com <agallagher@johnsonjackson.com>; ejackson@johnsonjackson.com <ejackson@johnsonjackson.com>; imgarcia2@dadeschools.net <imgarcia2@dadeschools.net>; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net <jordanmadrigal@dadeschools.net>; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com <jgrosholz@rumberger.com>; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com <ccarstens@lawfla.com>; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com <pduggan@shumaker.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>
Subject: RE: Equality Florida v. DeSantis

Dear Daniel,

I hope you enjoyed the weekend (and that, if you celebrated a holiday, it was meaningful).

To follow up on our discussion, I write to propose a schedule for PI-stage expert disclosures and depositions, limited written discovery (just ROGs and RFAs), and motion practice on your anticipated motions to dismiss and our anticipated motion for a preliminary injunction. Here is our proposal for consideration by defense counsel:

- May 25: Deadline for plaintiffs to file amended complaint and add/drop parties
- June 15: Plaintiffs' expert disclosures due
- June 24: Defendants' expert disclosures due
- June 29: Deadline for parties to serve interrogatories
- July 22: Deadline for parties to respond to interrogatories
- July 29: Deadline for parties to serve requests for admission
- August 10: Deadline for completion of expert depositions
- August 17: Deadline for parties to respond to requests for admission
- September 20: Deadline for plaintiffs to file motion for PI
- October 14: Deadline for defendants to file motion to dismiss and opposition to PI
- November 3: Deadline for plaintiffs to file reply in support of PI and opposition to motion to dismiss
- November 16: Deadline for defendants to reply to motion to dismiss

Although this schedule does not contemplate any further fact discovery, it is likely that we will present fact affidavits in support of our PI motion (and that we will propose a PI hearing with fact

witness testimony). We expect that you all may do the same. If you believe that any PI-stage discovery on such factual matters is warranted, let us know and we can discuss.

Sincerely,
Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

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Washington, DC 20001
(W) 929.294.2537
jmatz@kaplanhecker.com

From: Joshua Matz <jmatz@kaplanhecker.com>
Sent: Thursday, April 14, 2022 10:11 AM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org; liz@elizabethschwartz.com
Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com; ejackson@johnsonjackson.com; imgarcia2@dadeschools.net; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>
Subject: Re: Equality Florida v. DeSantis

Hi Daniel

I write to confirm our availability. We look forward to speaking later today.

Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

350 Fifth Avenue | 63rd Floor
New York, NY 10118
(W) 929.294.2537

From: Joshua Matz
Sent: Wednesday, April 13, 2022 7:40:48 PM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org <CStoll@nclrights.org>; liz@elizabethschwartz.com <liz@elizabethschwartz.com>
Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com <agallagher@johnsonjackson.com>; ejackson@johnsonjackson.com <ejackson@johnsonjackson.com>; imgarcia2@dadeschools.net

<imgarcia2@dadeschools.net>; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net <jordanmadrigal@dadeschools.net>; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com <jgrosholz@rumberger.com>; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com <ccarstens@lawfla.com>; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com <pduggan@shumaker.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>

Subject: RE: Equality Florida v. DeSantis

Hi Daniel

Thanks so much. Let's hold that time and I'll circle back tomorrow morning with final confirmation that it still works for us (it likely does). In the interim, I'd be grateful if you could circulate a dial in.

Best,
Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

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Washington, DC 20001
(W) 929.294.2537
jmatz@kaplanhecker.com

From: Daniel Bell <Daniel.Bell@myfloridalegal.com>

Sent: Wednesday, April 13, 2022 9:50 PM

To: Joshua Matz <jmatz@kaplanhecker.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org; liz@elizabethschwartz.com

Cc: Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>; agallagher@johnsonjackson.com; ejackson@johnsonjackson.com; imgarcia2@dadeschools.net; 'henrysuarez@dadeschools.net' <henrysuarez@dadeschools.net>; jordanmadrigal@dadeschools.net; Marsey, David <dmarsey@rumberger.com>; jgrosholz@rumberger.com; 'Bob Harris' <bharris@lawfla.com>; James Dean <jdean@lawfla.com>; ccarstens@lawfla.com; H. Matthew Fuqua <mfuqua@fmc.legal>; 'DeLeo, Daniel J.' <ddeleo@shumaker.com>; pduggan@shumaker.com; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Henry Whitaker <Henry.Whitaker@myfloridalegal.com>

Subject: Re: Equality Florida v. DeSantis

This email was sent from outside the Firm.

Joshua and team:

Counsel for all defendants are copied here. I believe at least one attorney for each of the defendants can make 5:00 tomorrow (Thursday) afternoon work. If that still works for the

plaintiffs, we're happy to talk then. Thanks very much,

Daniel

From: Joshua Matz <jmatz@kaplanhecker.com>
Sent: Tuesday, April 12, 2022 12:04 PM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org <CStoll@nclrights.org>; liz@elizabethschwartz.com <liz@elizabethschwartz.com>
Cc: Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>
Subject: RE: Equality Florida v. DeSantis

Dear Mr. Bell,

To follow up on Robbie's email, would you all be available on Wednesday between 4:30 to 6pm, or on Thursday between 10.45am to 12pm or after 4:30pm? If not, perhaps we could speak Friday between 10.30am to 2pm?

Sincerely,
Joshua

Joshua Matz | Kaplan Hecker & Fink LLP

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Washington, DC 20001
(W) [929.294.2537](tel:929.294.2537)
jmatz@kaplanhecker.com

From: Daniel Bell <Daniel.Bell@myfloridalegal.com>
Sent: Monday, April 11, 2022 10:32 PM
To: Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org; liz@elizabethschwartz.com
Cc: Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Joshua Matz <jmatz@kaplanhecker.com>; Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>
Subject: Re: Equality Florida v. DeSantis

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Happy to discuss. I don't have anything this week that I can't move. If you want to give us a few windows that work for your side, I'll check with counsel for the school districts and we can nail something down.

Thanks,
Daniel

From: Roberta Kaplan <rkaplan@kaplanhecker.com>
Sent: Monday, April 11, 2022 10:08 PM
To: Daniel Bell <Daniel.Bell@myfloridalegal.com>; CStoll@nclrights.org <CStoll@nclrights.org>; liz@elizabethschwartz.com <liz@elizabethschwartz.com>
Cc: Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>; Joshua Matz <jmatz@kaplanhecker.com>; Shannon Minter (sminter@nclrights.org) <sminter@nclrights.org>
Subject: Re: Equality Florida v. DeSantis

Dear Mr. Bell:

Thank you for your email.

We have no objection to the idea of an extension, but we have also been thinking on our own about a comprehensive schedule that would incorporate dates for all of this.

Can we schedule a time to speak in the next couple of days?

Copying my partner Joshua Matz, who has been working with me on this.

Very truly yours,

Robbie

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(W) [212.763.0883](tel:212.763.0883)
rkaplan@kaplanhecker.com

From: Daniel Bell <Daniel.Bell@myfloridalegal.com>
Sent: Monday, April 11, 2022 10:00:31 PM
To: Roberta Kaplan <rkaplan@kaplanhecker.com>; CStoll@nclrights.org <CStoll@nclrights.org>; liz@elizabethschwartz.com <liz@elizabethschwartz.com>
Cc: Henry Whitaker <Henry.Whitaker@myfloridalegal.com>; Anita Patel <Anita.Patel@myfloridalegal.com>; Bilal Faruqui <Bilal.Faruqui@myfloridalegal.com>
Subject: Equality Florida v. DeSantis

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Counsel:

Along with my colleagues who are copied here, I represent the state defendants in Equality Florida v. DeSantis. Although the school district defendants are separately represented, I am authorized on behalf of all defendants to ask for your position on a 30-day enlargement of time for defendants to respond to the complaint. If you plan to seek a preliminary injunction, we would be open to a briefing schedule that would account for that. Happy to discuss, and hope all is well.



Daniel W. Bell
Chief Deputy Solicitor General
Office of the Attorney General
PL-01, The Capitol | Tallahassee, FL 32399

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