

legislature, and the Kansas Board of Education must file for office is June 11, 2012. *See* K.S.A. § 25-205.

5. According to Kansas and federal law, ballots must be sent to military and overseas citizens by June 23, 2012 (forty-five (45) days before the Aug. 7, 2012, primary). *See* K.S.A. § 25-1220 and 42 U.S.C. § 1973ff-1(a)(8). Upon information and belief, County Election officials require approximately three (3) weeks to program the Election Voter Information System, format ballots, and have them printed by a vendor. Therefore, valid reapportionment plans must be in place by June 4, 2012 to begin this process in order to meet the deadline imposed by federal and state law.

6. Reapportionment must occur prior to the June 11, 2012, filing deadline so that prospective candidates will know the district in which they are running for office. Upon information and belief, this Court must issue valid reapportionment plans by June 4, 2012, to provide candidates and prospective candidates adequate time to decide whether or not to file for public office.

7. The Kansas Constitution provides a process by which the Attorney General is allotted fifteen (15) days to review state apportionment plans and the Kansas Supreme Court is allotted (30) days to review state apportionment plans. Due to the length of these constitutional procedures, sufficient time does not exist to allow these timelines to run in the event that the legislature does pass reapportionment plans that are signed by the Kansas Governor. Therefore, this Court must act quickly and expeditiously to ensure that irreparable harm is avoided.

8. In the increasingly unlikely event that the Kansas Legislature somehow manages to complete reapportionment plans at this late hour, a motion can entered that time to dismiss this case as moot. However, if this Court does not expedite this case immediately, there will not be sufficient time for this Court to act by June 4, 2012.

9. Under any circumstances, it will be exceedingly difficult for the Court to issue the remedy sought by June 4, 2012. Therefore, it is imperative that the Court expedite this Action to allow sufficient time for Defendant and county election officers in Kansas to comply with state and federal law. “In awarding or withholding immediate relief in state legislative apportionment case, [a] court is entitled to and should consider proximity of forthcoming election and mechanics and complexities of state election laws, and should act and rely upon general equitable principles.” *Reynolds v. Sims*, 377 U.S. 533, 585 (1964).

10. “Free and honest elections are the very foundation of our republican form of government.” *Id.* at 564, FN 41. If this court does not act expeditiously, there is a possibility of irreparable harm if elections are conducted according to current districts which contain significant deviations as described in the Answer to the Complaint. Additionally, delaying or prolonging action will only decrease the amount of time this Court will have to issue reapportionment plans.

11. Counsel for Plaintiff has been notified of this Motion and does not object to the dates below.

WHEREFORE, based on the foregoing, Defendant respectfully proposes the following dates, be entered into a Scheduling Order:

1. All Rule 26 disclosures must be made by May 18, 2012.
2. All parties and intervenors must be joined by May 21, 2012.
3. A pretrial conference on May 21, 2012 pursuant to Rule 16 of the Federal Rules of Civil Procedure.
4. All briefs and memoranda proposing reapportionment plans must be submitted to the Court on or before May 29, 2012.

5. A hearing on proposed reapportionment plans on May 29, 2012.

ALTERNATIVELY, the Defendant respectfully asks that the Court issue a scheduling order with alternative dates, with the expectation that the Court will be able to issue reapportionment plans on or before June 4, 2012.

ADDITIONALLY, Defendant respectfully requests that the Court convene a three judge panel at the earliest possible date pursuant to 22 U.S.C. § 2284.

Respectfully submitted,

**OFFICE OF THE KANSAS
SECRETARY OF STATE**

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on counsel for Plaintiff via the Court's Electronic Filing System, this 17th day of May, 2012.

/s/ Ryan A. Kriegshauser
Attorney for the Defendant