

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

**PEN AMERICAN CENTER, INC.,
et al.,**

Plaintiffs,

v.

Case No. 3:23cv10385-TKW-ZCB

**ESCAMBIA COUNTY SCHOOL
BOARD,**

Defendant.

_____ /

SUPPLEMENTAL SCHEDULING ORDER

Upon due consideration of the parties' case management reports (Docs. 195, 197) and based on the discussions with the parties at yesterday's telephonic case management conference, it is **ORDERED** that:

1. Amendment.

a. Plaintiffs have until August 8, 2025 to seek leave to file a second amended complaint supplementing the amended complaint with allegations and claims relating to the Defendant's recent actions on the books at issue in the amended complaint.

b. The proposed second amended complaint shall include a list of the books still at issue in this case and provide appropriate shorthand references for the categories in which each book falls.¹

c. Defendant has 14 days from the date the motion is filed to respond to it.

2. Motion for protective order / motion to quash.

a. The School Board members have until August 22, 2025 to file a motion for protective order / motion to quash their depositions based on legislative privilege.

b. The motion shall include argument as to why the motion should be allowed at this point, as well as argument on the merits.

c. Plaintiffs have 14 days from the date the motion is filed to respond to it.

3. Discovery.

a. The deadline for completing any outstanding discovery and all supplemental discovery is October 15, 2025.

b. The scope of discovery includes all books at issue in the amended complaint irrespective of the current reason for the book's removal/restriction.

¹ It is the Court's understanding that the books still at issue in this case fall into three categories: books removed by Board vote on a citizen book challenge; books restricted pending Board review based on a citizen book challenge and/or school librarian review; and books removed by Board vote based on a list maintained by the State.

c. The considerations in Fed. R. Civ. P. 1 and 26(b)(1) continue to apply to all discovery requests.

d. Notwithstanding paragraph (a), it is anticipated that the deadline for completing the Board members' depositions will be stayed if they are allowed to file a motion for protective order / motion to quash, the motion is denied on the merits,² and the Board members file an interlocutory appeal of the denial.

4. Briefing on "threshold" issues.

a. The "threshold" issues of standing and government speech / applicability of the First Amendment to school library book removals will be briefed separately from the merits of the First Amendment claims.³

b. The deadline for motions for summary judgment and *Daubert* motions relating to the threshold issues is 21 days after the discovery deadline. The deadlines for responses and replies are as set forth in the existing scheduling order. *See* Doc. 54 at ¶¶4-5.

² It is anticipated that if the Court reaches the merits of the motion, it will be denied for the same reasons that the motion for protective order filed by Defendant on behalf of the Board members was denied. *See* Doc. 155.

³ The intent of bifurcating the "threshold" issues from the merits is to allow the case to continue to move towards resolution while the Board members' expected interlocutory appeal is pending.

5. Merits. A schedule for motion practice and/or trial on the merits of the First Amendment claims will be established after the Court rules on the “threshold” issues and the Board members’ depositions are completed.

6. Existing scheduling order. The existing scheduling order (Doc. 54) remains in effect, except as modified by this order.

DONE and ORDERED this 5th day of August, 2025.

A handwritten signature in blue ink, appearing to read "T. Kent Wetherell, II", with a stylized flourish at the end.

T. KENT WETHERELL, II
UNITED STATES DISTRICT JUDGE