

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

FOX NEWS NETWORK, LLC and)	
CHRISTOPHER WALLACE,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:10-cv-00906-GAF
)	
ROBIN CARNAHAN FOR SENATE, INC.,)	
)	
Defendant.)	

**DEFENDANT’S SUGGESTIONS IN SUPPORT OF
MOTION TO EXPEDITE PURSUANT TO 28 U.S.C. § 1657**

Because of the chilling effect the present lawsuit has on the dissemination of accurate and truthful political information to Missouri’s voters, Robin Carnahan for Senate, Inc. (“Carnahan”) respectfully requests the Court expedite this case on its docket.

BACKGROUND

Robin Carnahan is a candidate for United States Senate for the State of Missouri. The election takes place 43 days from today. On September 15, 2010, Fox News Network, LLC (“Fox News”) and Christopher Wallace (“Wallace”) filed a three-count lawsuit against Carnahan, attempting to prohibit the campaign’s fair use of a short video clip from Wallace’s interview of opposing candidate Roy Blunt. The present lawsuit appears to be one of the very few times that a television network has sued a political candidate challenging the fair use of an interview of another candidate. Because the lawsuit threatens to interrupt the free flow of

information to Missouri's electorate, and potentially impact a Senate election, Carnahan respectfully requests that the Court expedite the case as set forth below.

ARGUMENT

District courts possess the inherent power "to manage their own affairs to facilitate the orderly and expeditious disposition of cases." *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962); *see also* Fed. R. Civ. P. 1 (stating that the Federal Rules "should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding."). 28 U.S.C. § 1657 provides that:

Notwithstanding any other provision of law, each court of the United States shall determine the ordered in which civil actions are heard and determined, except that the court *shall expedite* the consideration of . . . any other action if good cause therefor is shown. (emphasis added).

Good cause is present here in that Carnahan will suffer irreparable injury as a result of a delay in these proceedings. Fox's lawsuit has caused the campaign to devote time and resources on unnecessary litigation, interfered with Carnahan's ability to communicate with Missouri voters, and created substantial uncertainty with Missouri broadcasters regarding whether they should air the ad. It would be a hollow victory if Carnahan's use of the interview clip is subsequently vindicated as a fair use by this Court, but not until sometime after the election. And there is a clear and demonstrable public interest in resolving the narrow legal issues presented by the Complaint as soon as possible. Thus, prompt resolution of the Fox News/Wallace Complaint is appropriate under 28 U.S.C. §1657 and this Court's rules and operating procedures.

To facilitate this request, Carnahan proposes an expedited briefing schedule set forth below. In order to accommodate the Court's consideration of this matter, Carnahan respectfully

proposes that, in lieu of the schedule contemplated by Fed. R. Civ. P. 26, the Court consider the following proposed schedule:

- Carnahan files any dispositive motions or motions to dismiss by September 22, 2010
- Fox News and Wallace respond, and Carnahan replies within expedited time periods determined in the Court's discretion after consultation with the parties.

CONCLUSION

For the reasons stated above, Carnahan requests that the Court grant its motion to expedite proceedings.

Dated: September 20, 2010

Respectfully submitted,

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By: /s/ Matthew A. Braunel

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served electronically by means of the Court's CM/ECF electronic filing system and via electronic mail on this the 20th day of September, 2010, upon all counsel of record.

/s/ Matthew A. Braunel