IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION

ALABAMA LEGISLATIVE BLACK CAUCUS, et al.,	)	
Plaintiffs,	)	
	)	Case No. 2:12-cv-691 WKW-MHT-WHP
THE STATE OF ALABAMA, et al.,	)	
Defendants.	)	
DEMETRIUS NEWTON, et al.,	)	
Plaintiffs,	)	
v.	)	Case No. 2:12-cv-1081 WKW-MHT-WHP
THE STATE OF ALABAMA, et al.,	)	
Defendants.	)	

CONSOLIDATED REPLY BRIEF OF THE *ALBC*
STATE DEFENDANTS, SENATOR GERALD DIAL,
AND REPRESENTATIVE JIM McCLENDON

The State of Alabama and Beth Chapman, in her official capacity as Secretary of State, defendants in this action, and Senator Gerald Dial and Representative Jim McClendon, defendants-intervenors, (collectively, the

"Defendants", unless otherwise stated), jointly submit this Reply to the *ALBC* Plaintiffs' Response in Opposition to their Motion for Summary Judgment (No. 134). For the reasons stated in the *ALBC* State Defendants' Motion and supporting Memorandum, including its exhibits, (Nos. 122, 125, and 125-1 through 125-14) and this Reply and its Exhibits, this Court should enter judgment in favor of the Defendants and against the *ALBC* Plaintiffs on their claims of vote dilution and isolation.

The *ALBC* Plaintiffs' reliance on the Supreme Court's decision in *Shelby County v. Holder*, 2013 WL 3184629 (U.S. June 25, 2013), is misplaced.

The *Shelby County* decision came more than a year after the 2012 Senate and House plans were drawn up and nearly nine months after they were precleared. See Nos. 26-1, 26-2. It could not have affected the drafting of these plans in any way. Rather, the actions of Senator Dial and Representative McClendon must be evaluated from their perspective when they were acting, not a year later. To argue otherwise is an exercise of 20-20 hindsight.

In fact, the plans were developed with preclearance in mind and were submitted to the Attorney General. They were precleared,

notwithstanding two letters and a meeting between one of the lawyers for the *Newton* Plaintiffs and UDOJ Voting Section staff. See Exhibits T-1, T-2.

Indeed, if the Attorney General had objected to one or both of these plans, these cases would likely have been hanging fire pending either the result of litigation in the District Court for the District of Columbia, waiting for the decision in *Shelby County*, or both. But, preclearance having been pursued and obtained, the bell cannot be unrung.

As a result, the *ALBC* Plaintiffs are unfair when they invoke the concern that "considerations of race that would doom a redistricting plan under the Fourteenth Amendment or § 2 seem to be what save it under § 5." No. 134 at 2 (quoting *Shelby County v. Holder*, 2013 WL 3184629 at * 13).

To the extent that § 5 mandated a measure of race conscious action, Senator Dial and Representative McClendon had little choice but to engage in such action. Put differently, for any legislative plan that was enacted and precleared before the *Shelby County* decision, measures reasonably necessary to comply with § 5 must be deemed to further a compelling governmental interest.

Moreover, the difficulty of the task facing Senator Dial and Representative McClendon should not be underestimated. When he was deposed, Ted Arrington, one of the *Newton* Plaintiffs' experts, acknowledged that the Department of Justice "does not have bright lines." Exhibit T-4 at 79, line 10. He explained:

> Q. Well, has Justice ever said there's a bright line like 55 percent [for identifying a packed district]?
>
> A. No. The Justice does not have bright lines. The Department of Justice looks at the totality of the circumstances.
>
> Q. So they can reject anything if they have the guts to do it?
>
> A. Yeah.
>
> MR. PATTY: Object to form.
>
> Q. But they like flexibility, right, because all plans are different, correct?
>
> A. That's correct.
>
> Q. So they would never set out a bright line like it?
>
> A. That's correct. That's my understanding in working with them, yes.

Exhibit T-4, at 79:8-23; see also id., at 135:10 through 137:1 (agreeing with description of the preclearance process as "opaque").

The Defendants recognize that preclearance is not preclusive of other claims. They do note, though, that the preclearance inquiry post-2006 was even more far reaching than before in that the Attorney General was empowered to look for "any discriminatory purpose." Accordingly, the fact of preclearance should be viewed favorably to the Defendants in the totality of the circumstances inquiry.

The *ALBC* Plaintiffs' substantive claims lack merit.

Once again, the *ALBC* Plaintiffs attack the use of an overall population deviation of ±1% and attack the splitting of counties. Now, they attribute the drafters' actions to race conscious motivation, deeming that impermissible in the light of the *Shelby County* decision. The Defendants disagree because the use of the ±1% is an entirely legitimate policy choice that has not been shown to be pretextual.

The *ALBC* Plaintiffs' mistaken use of the *Shelby County* decision permeates their substantive argument. They assert that the *Shelby County* decision is the "writing" that says that Senator Dial and Representative McClendon had an erroneous understanding of their § 5 obligations. No. 134 at 7. They characterize actions taken to satisfy that understanding as packing or otherwise race-conscious. *Id*., at 9 ("[t]his packing objective").

ALBC Plaintiffs also point to what they call "race-specific admissions," *Id*., at 12, in addressing actions taken to comply with the drafters understanding of their § 5 obligations. All of that linkage should be disregarded.

The remainder of their argument lacks merit for the following reasons:

(1) The *ALBC* Plaintiffs blame the drafters for having a bad motive, but the Voting Rights Act requires a measure of race-conscious districting. The first *Gingles* criterion requires the creation of black-majority districts in some circumstances. See *Thornburg v. Gingles*, 478 U.S. 30, 50 106 S. Ct. 2752, 2766 (1986) ("First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district."). The *ALBC* Plaintiffs complain that the black-majority districts in the 2012 Senate and House plans exceed that standard, but they do not question whether they meet it. In any event, some consideration of race is not a reason to invalidate a redistricting plan.

(2) The deposition of the *Newton* Plaintiffs' expert, Ted Arrington, illustrates practical difficulties with the *ALBC* Plaintiffs' approach. When asked about the map of the Montgomery black-majority districts that

Representative Thad McClammy gave to Representative McClendon, Arrington testified:

> Q. Do you think that if Mr. McClammy drew … a black-majority – a black legislator gives you, I want 68 percent –
>
> A. Yeah.
>
> Q. He's not trying to help Republicans, is he?
>
> A. No. he's trying to help himself.

Exhibit T-4 at 48: 6-12; see also *id.*, at 49: 5-7 ("Every black representative would like his district to … have as many blacks in it as possible.").

In Arrington's view, it's up to the Republicans or the courts to protect African-American voters from their representatives. But there are practical problems with that, too. Exhibit T-4, at 115:22 through 119:4 (How realistic is it for white Alabama Republicans to tell *ALBC* members that they know better than those *ALBC* members how to draw their districts?).[1]

(3) The *ALBC* Plaintiffs' reliance on the fact that Randy Hinaman did not meet with any of the black legislators, see No. 134 at 10-11, misses much of the evidence. Senator Dial has testified that he met with every one of his colleagues. No. 76-4 at 3, ¶ 8. Senator Dial also testified that he

[1] Arrington's assertion that Senator Dial and Representative McClendon did not try to get input from the *ALBC* legislators (Exhibit T-4 at 119: 1-4) is incorrect for reasons stated below.

got a map of the proposed black-majority Senate districts in Jefferson County from Senators Rodger Smitherman, Linda Coleman, and Patricia Dunn, and Hinaman has explained that he used "90-95% of that map in drawing the lines for the Senate plan, with the changes coming around the edges of the districts." No 125-3 at 13:14 through 16:4; No. 125-10 at 3, ¶ 5.

Representative McClendon has testified that he offered to meet with all of his colleagues and "most, but not all, of my colleagues took me up on that offer." No. 76-5 at 3, ¶ 8. Any *ALBC* House member who did not take Representative McClendon up on that offer has only him or herself, not Randy Hinaman, to blame. Moreover, Representative McClendon has testified that he received a map of the proposed black-majority House districts in Montgomery from Thad McClammy, who "told [McClendon] to use his plan for Montgomery and not someone else's." No. 76-5 at 4, ¶ 13. Hinaman has explained that he used "the concept" for the McClammy map in drawing the House plan. No. 125-10 at 4, ¶ 7.

Significantly, that meant rolling up HD 73 and moving it to Shelby County. The demographics of the black-majority districts in Montgomery in

the 2012 plan and when the 2010 Census data were loaded into the 2001 district lines show[2]:

	2012	Needed	2010 in 2001 Lines
HD 76	73.79%	-627	69.54%
HD 77	67.04%	-10,523	73.52%
HD 78	69.99%	-14,641	74.26%

Hinaman explains, "To get the black population needed for HDs 76, 77, and 78, the map I received from Representative McClendon [*i.e.*, the McClammy map] drew African-American voters from HD 73. I kept the African-American percentages for each black-majority district very close to the percentages in the McClammy map." No. 125-10 at 4, ¶ 6.

The *ALBC* Plaintiffs also complain that the Senate plan made "no effort to preserve the 9 majority-black House districts in Jefferson County." No. 134 at 11. The House plan moves HD 53 from Jefferson County to Madison County, where it remains a black-majority district. That move makes sense when the demographics of the black-majority districts in Jefferson County are considered. In particular, those districts were,

[2] See Nos. 30-36 and 30-37.

collectively, short of the ideal population by more than 97,000 people, or more than two House districts.

Those demographics are as follows:

	2012	Needed	2010 Census in 2001
HD 52	60.13%	-2,362	60.11%
HD 53	*	-10,143	55.70%
HD 54	56.83%	-10,616	56.73%
HD 55	73.55%	-9,949	73.55%
HD 56	62.14%	-4,457	62.13%
HD 57	68.47%	-9,322	68.42%
HD 58	72.76%	-8,078	77.86%
HD 59	76.72%	-12,683	67.03%
HD 60	67.88%	-8,817	67.41%
HD 67	69.15%	-7,643	69.14%
HD 68	64.56%	-9,287	62.55%
HD 69	64.21%	-7,949	64.16%
HD 70	62.03%	-6,268	61.83%

The *ALBC* Plaintiffs assert that the "clear inference" of moving HD 53 to Madison County is that the move would not have been made without

rolling up the Jefferson County district, see No. 134 at 11-12, but the demographics noted above required some action.

Statewide Considerations

In this portion of their Reply, the Defendants will point to statewide factors that reflect the totality of the circumstances. These considerations support the conclusion that the 2012 Senate and House plans do not violate the Constitution or § 2 of the Voting Rights Act.

At the outset, the Defendants note that, contrary to the *ALBC* Plaintiffs' contention, the 2012 Senate and House plans do not "ignore traditional districting criteria." No. 134 at 15. They serve the compelling interests of complying with § 5 and one-person, one-vote standards, both of which are legitimate and traditional districting criteria. In the same way, compliance with § 5 cannot be turned into a "per se admission of intentional discrimination." *Id*. That happens only under the *ALBC* Plaintiffs' bizarre interpretation of the *Shelby County* decision.

County Splitting

The Defendants note that the *ALBC* Plaintiffs again criticize the use of an overall deviation of ±1% to the detriment of the preservation of county boundaries. That criticism is misplaced for three reasons.

First, however framed, the contention that too many counties were split raises serious justiciability concerns. Those concerns include the fact that any standard governing the splitting of counties that applies, in whole or in part, the "whole-county" provision in the Alabama Constitution, must come from the state courts. In addition, the lines between too many and not too many or between necessary and unnecessary are impossible to define. Leaving those concerns aside, the *ALBC* Plaintiffs' argument is overstated. The *ALBC* State Defendants have already shown that the number of counties split in the 2012 Senate plan (33) is about the same as the number of counties split in the 2001 (31) and 1993 Senate plans (32). See No. 76-3. Where the change in the overall deviation from ±5% to ±1% had an effect was in the 2012 House plan. The 2012 House plan splits 50 counties, while the 2001 plan split 39 and the 1993 plan split 36. *Id*. For the *ALBC* Plaintiffs to be correct, there must be a bright, shiny line between 33 and 31 or 32 and another between 50 and 36 or 39. No such line exists, and, if one is to be drawn, it is the job of the state courts to do it.

Third, the *ALBC* Plaintiffs' argument is logically flawed. That argument puts one redistricting criterion, the preservation of county boundaries, ahead of others, in particular, greater adherence to one-

person, one-vote standards. Ted Arrington, the *Newton* Plaintiffs' expert, and Tom Brunell, the Defendants expert, both criticize this approach. Arrington notes:

> [E]very traditional redistricting principle is more or less incompatible with every other. The principle of defining districts with "communities of interest" or county lines is incompatible with one-person-one-vote rules, because communities and counties do not conveniently come in population sizes that are multiples of the size of legislative districts. When any one principle is carried to an extreme, the other principles suffer accordingly.

No. 137-6 at 27-28, ¶ 67. For his part, Brunell observes, "It is well know[n] that traditional districting criteria are often in tension with one another." Exhibit T-3 at 2 and fn. 3. In putting county boundaries ahead of one-person, one-vote considerations, the *ALBC* Plaintiffs are carrying their own preferred criterion to an extreme.

Rather than being the job of the *ALBC* Plaintiffs, it was up to Senator Dial and Representative McClendon to develop plans that balanced the competing redistricting criteria. Putting one criterion ahead of another is not, standing alone, a constitutional or statutory violation. And, it is not enough that the *ALBC* Plaintiffs might have done it differently. Instead, they must show that, when Senator Dial and Representative McClendon

struck their balances, they violated the *ALBC* Plaintiffs constitutional or statutory rights.

Proportionality

The 2012 Senate and House plans also provide minority voters with roughly proportional representation. In *League of United Latin American Citizens v. Perry*, 548 U.S. 399, 126 S. Ct. 2594 (2006), the Court noted that proportionality is "a relevant fact in the totality of the circumstances" even if it may not be a "safe harbor" for § 2 purposes. 548 U.S. at 436. Where the challenge is statewide, as it is here, the proportionality inquiry should be statewide. *Id*.

The 2012 Senate and House plans provide minority voters with roughly proportional representation.[3] According to the 2010 Census, the African-American population of Alabama is about 26.8% of the total population. The Senate plan provides 8 black-majority districts, or 22.9% of the total of 35, and the House plan provides 28 black-majority districts, or

[3] The Defendants recognize that there are minorities other than African-Americans in Alabama. Those other minorities are not represented in the Legislature, and their numbers are too small to factor into the proportionality analysis. In that regard, the Defendants note that there are no § 203 language-minority jurisdictions in Alabama. See http://www.justice.gov/crt/about/vot/28cfr/55/28cfr55.htm#anchor55_203c (last visited July 13, 2013).

26.7% of the total of 105. Even if another black-majority district would bring the plans closer to true proportionality (as to which, the *ALBC* Plaintiffs have no statutory right), no such district can be drawn without satisfying the first *Gingles* criterion, something the *ALBC* Plaintiffs have not attempted to do. Cf. *Thornburg v. Gingles*, 478 U.S. 30, 50, 106 S. Ct. 2752, 2766 (1986)(" First, the minority group must be able to demonstrate that it is sufficiently large and geographically compact to constitute a majority in a single-member district.").

Demographic Comparison

The *ALBC* State Defendants have already shown that the demographics of the black-majority districts in the 2012 plans are not significantly different from the demographics of the same districts in the 2001 and 1993 plans, which Democratic majorities drew. See Nos. 30 at 17, 20; No. 125 at 55-56. That similarity suggests that the districts in the 2012 plans are no more packed than those in the earlier plans, or that the *ALBC* Plaintiffs expect this Court to tell the Defendants to fix a problem that the Democrats did not just create, but also perpetuated.

Another measure of the continuity of the 2012 plans with past practice is a comparison of the demographics of the black-majority districts

in the 2012 plans with the demographics of those districts in the 2001 plans with the 2010 Census results loaded into them.

For the Senate plan, the results are as follows[4]:

	2012	Needed	2010 in 2001 Lines
SD 18	59.10%	-24,092	59.92%
SD 19	65.31%	-27,399	71.59%
SD 20[5]	63.15%	-29,189	77.82%
SD 23	64.84%	-24,625	64.76%
SD 24	63.22%	-17,723	62.78%
SD 26	75.13%	-15,598	72.69%
SD 28	59.83%	-5, 196	50.98%
SD 33	71.64%	-24,649	64.85%

These results again show that every one of the black-majority Senate districts needed to add population to come within the allowable overall deviation. They also show that the drafters essentially left the black-majority districts as they found them.

[4] The demographics of the 2012 Senate plan can be found in No. 30-39, and the result of loading the 2010 Census results into the 2001 districts in No. 30-41.

[5] Senator Dial testified that the percentage of the total population that was African-American decreased "in the Smitherman, Dunn, Coleman map that they drew for themselves." No. 125-3 at 100:20 through 101:1.

For the House plan, the results are as follows[6]:

	2012	Needed	2010 in 2001 Lines
HD 19	61.25%	-3.141	69.82%
HD 32	60.05%	-6,721	59.34%
HD 52	60.13%	-2.362	60.11%
HD 53	*	-10,143	55.70%
HD 54	56.83%	-10,616	56.73%
HD 55	73.55%	-9,949	73.55%
HD 56	62.14%	-4,457	62.13%
HD 57	68.47%	-9,322	68.42%
HD 58	72.76%	-8.078	77.86%
HD 59	76.72%	-12,683	67.03%
HD 60	67.88%	-8,817	67.41%
HD 67	69.15%	-7,643	69.14%
HD 68	64.56%	-9,287	62.55%
HD 69	64.21%	-7,949	64.16%
HD 70	62.03%	-6,268	61.83%

[6] The demographics for the 2012 House plan can be found in No. 30-36, and the results of loading the 2010 Census into the 2001 districts in No. 30-37.

HD 71	66.90%	-7,427	64.28%
HD 72	64.60%	-6,107	60.20%
HD 76	73.79%	-627	69.54%
HD 77	67.04%	-10,523	73.52%
HD 78	69.99%	-14,641	74.26%
HD 82	62.14%	-2,132	57.13%
HD 83	57.52%	-4,482	56.92%
HD 84	52.34%	-4,204	50.61%
HD 85	50.08%	-3,092	47.94%
HD 97	60.66%	-10,115	60.66%
HD 98	60.02%	-7,690	65.22%
HD 99	65.61%	-5,730	73.55%
HD 103	65.06%	-4,910	69.84%

As with the 2012 Senate plan, these results again show that every one of the black-majority House districts needed to add population to come within the allowable overall population deviation. They also show that the drafters essentially left the black-majority House districts as they found them.

Associational Standing

The *ALBC* Plaintiffs disagree with the Defendants' contention that the associational plaintiffs, the Alabama Legislative Black Caucus and the Alabama Association of Black County Officials, have standing to pursue statewide claims. As they put it,

> The Alabama Legislative Black Caucus is composed of every African-American member of the House and Senate. The Alabama Association of Black County Officials has members **in most counties** in Alabama. By whatever standard, including the *Shaw* standard, they have standing to challenge more than enough of the packed predominantly race-based House and Senate districts to require a complete redrawing of the redistricting plans.

No. 134 at 20-21 (emphasis added).

Without waiving their challenge to the standing of the associational plaintiffs, which was briefed in No. 125, the Defendants note that nothing stopped the associations' members from joining this lawsuit in their own right.

Moreover, the *ALBC* plaintiffs have not identified anyone who has an interest in SD 11. That district is not a black-majority district, so none of the *ALBC* members represents it much less lives in it. Likewise, it is unclear

whether a member of the AABCO lives there. Without a live, identifiable plaintiff, there can be no claim regarding SD 11.

Remedy

The *ALBC* Plaintiffs contend that a "do-over" is required. The Defendants disagree. To the extent that the remedy for "packing" is "cracking", the *ALBC* Plaintiffs seek the creation of influence or crossover districts. That remedy is unavailable under Section 2 as the Supreme Court held in *Bartlett v. Strickland*, 556 U.S. 1, 129 S. Ct. 1239 (2009). It is inappropriate in this case for several reasons.

First, § 2 targets practices that give a minority "less opportunity than other members of the electorate … to elect representatives of their choice." 42 U.S.C. § 1973(b). Creating a new coalition or crossover district for the *ALBC* Plaintiffs will give them more opportunity than other members of the electorate. But, as the *Bartlett* plurality noted, § 2 does not entitle minority groups to maximize their political strength. *Bartlett*, 556 U.S. at 11, 129 S. Ct. at 1244 (quoting *Johnson v. DeG*randy, 512 U.S. 997, 1016-17 (1994) ("[R]eading § 2 to define dilution as any failure to maximize tends to obscure the very object of the statute and runs counter to its textually stated purpose. One may suspect vote dilution from political famine, but

one is not entitled to suspect (much less infer) dilution from mere failure to guarantee a political feast.")); see also *id*., 556 U.S. at 19, 129 S. Ct. at 1248 ("When we address the mandate of § 2, however, we must note it is not concerned with maximizing minority voting strength."); *Miller v. Johnson*, 515 U.S. 900 (1995)(rejecting USDOJ's "black maximization" policy and its imposition of "max-black" congressional redistricting plan on Georgia).

Moreover, the *ALBC* Plaintiffs want new crossover or coalition districts. But, "[n]othing in § 2 grants special protection to a minority group's right to form political coalitions." *Bartlett*, 556 U.S. at 10, 129 S. Ct. at 1243. But that "special protection" is precisely what the *ALBC* Plaintiffs would get if the State were required to protect their ability to form coalitions through the creation of influence or crossover districts.

Finally, designing a remedy is fiendishly difficult no matter how the claims are packaged. As the *Bartlett* plurality observed, the majority-minority threshold provides "need[ed] … workable standards" by "draw[ing] clear lines for courts and legislatures alike." *Id*., 556 U.S. at 12, 129 S. Ct. at 1244. The alternative

> would place courts in the untenable position of predicting many political variables and tying them to race-based assumptions. …For example, the courts would be required to

> pursue these inquiries: What percentage of white voters supported minority-preferred candidates in the past? How reliable would the crossover votes be in future elections? What types of candidates have white and minority voters supported together in the past and will those trends continue? Were crossover votes based on incumbency and did that depend on race? What are the historical turnout rates among white and minority voters and will they stay the same? Those questions are speculative, and the answer (if they could be supposed) would prove elusive.

Id., at 12-13, 129 S. Ct. at 1244-45. Even if the courts are capable of making "refined and exacting factual inquiries, they 'are inherently ill-equipped' to 'make decisions based on highly political judgments' of the sort that crossover-district claims would require." *Id*., at 13, 129 S. Ct. at 1245 (quoting *Holder v. Hall*, 512 U.S. 874, 894 (1994)(Thomas, J., concurring in judgment)).

In this regard, the *ALBC* State Defendants note that, while the *ALBC* Plaintiffs want them to draw a new coalition or crossover district, they nowhere state how far away the coalition or minority is from the majority. The farther away, the more any remedy will intrusive and unsettling to the interests of the State and other voters.

CONCLUSION

Throughout this litigation, the *ALBC* Plaintiffs have proposed rules that they failed to follow when they and other Democrats were in charge of redistricting. Creating black-majority Senate districts with total populations ranging between 56.458% and 71.507% and black-majority House districts ranging between 47.683% and 73.309%, like they did in 2001, is not packing, but the 2012 Senate and House plans with similar demographics are unlawfully packed. Similarly, these plans are examples of bad political gerrymandering, while the 2001 plans were an example of benign cooperation between white Democrats and African-Americans. Defendants reject the notion that the voting rights laws are a one-way street.

Defendants also reject the suggestion that their 2012 conduct is to be judged by the 2013 decision in *Shelby County v. Holder*. That decision simply gives the issue back to Congress, which may come up with a new formula. But it is not a valid basis for assessing the legality of these plans.

Whether Congress acts or not, though, the Defendants anticipate that (1) retrogression will still be viewed negatively; (2) the first *Gingles* criterion will guide the creation of new black-majority districts in Alabama;

and (3) *Bartlett v. Strickland* will apply to the creation of influence and crossover districts. That is for the future.

In this case, this Court should grant the Defendants' Motion for Summary Judgment with respect to the *ALBC* Plaintiffs' claims of vote dilution and isolation and enter judgment in favor of the Defendants and against the *ALBC* Plaintiffs.

Respectfully submitted, July 17, 2013.

LUTHER STRANGE
Attorney General of Alabama
By:
/s/ John J. Park, Jr.
John J. Park, Jr.
Deputy Attorney General
Ala. State Bar ID ASB-xxxx-P62J
E-mail: jjp@sbllaw.net
Strickland Brockington Lewis LLP
Midtown Proscenium Suite 2200
1170 Peachtree Street NE
Atlanta, GA 30309
Telephone: 678-347-2200
Fax: 678-347-2210

James W. Davis
Assistant Attorney General
Ala. State Bar ID ASB-xxxx-I58J
E-mail: jimdavis@ago.state.al.us

Misty S. Fairbanks Messick
Assistant Attorney General
Ala. State Bar IC ASB-xxxx-T71F
E-mail: mmessick@ago.state.al.us

Office of the Attorney General
State of Alabama
Post Office Box 300152
Montgomery, AL 36130-0152
Telephone: 334-242-7300
Fax: 334-353-8440

Attorneys for the *ALBC* State Defendants
/s/Dorman Walker
One of counsel for Defendants-Intervenors Jim McClendon and Gerald Dial

OF COUNSEL:
Dorman Walker (WAL086)
dwalker@balch.com
BALCH & BINGHAM LLP
Post Office Box 78
Montgomery, AL 36101-0078
Telephone: 334-834-6500
Fax: 334-269-3115

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and service will be perfected upon the following this the 17th day of July, 2013:

James U. Blacksher
PO Box 636
Birmingham, AL 35201-0636

U. W. Clemon
White Arnold & Dowd P.C.
2025 Third Avenue North, Suite 500
Birmingham, AL 35203

W. Edward Still
Edward Still Law Firm LLC
130 Wildwood Parkway Suite 108-304
Birmingham, AL 35209

James H. Anderson
William F. Patty
Jesse K. Anderson
Brannan Reaves
Jackson, Anderson & Patty, P.C.
P.O. Box 1988
Montgomery, AL 36102

Walter S. Turner
P.O. Box 6142
Montgomery, AL 36106

John K. Tanner
3743 Military Road NW
Washington, DC 20015

Joe M. Reed
Joe M. Reed & Associates, LLC
524 South Union Street
Montgomery, AL 36104

/s/Dorman Walker
Of Counsel