

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, )

Case No. 2:12-cv-1081  
WKW-MHT-WHP

v. )  
 )  
THE STATE OF ALABAMA, et al., )  
 )  
Defendants. )

**SUGGESTION OF DEATH AND  
MOTION FOR APPROPRIATE RELIEF**

Please take notice that Representative Demetrius Newton, one of the Plaintiffs in the case of *Newton v. State*, No. 12:1081, died on or about September 11, 2013.

Pursuant to Federal Rule of Civil Procedure 25, the State of Alabama, Robert J. Bentley, in his official capacity as Governor of Alabama, and Jim Bennett, in his official capacity as Secretary of State of Alabama, defendants in the *Newton* case, and Senator Gerald Dial and Representative Jim McClendon, intervenors-defendants in the *Newton* case, state further:

1. Federal Rule of Civil Procedure 25(a) states, in part, that a substitution of a party may be made “[i]f a party dies and the claim is not extinguished.”

2. If Representative Newton’s claim has not already been extinguished as a result of the absence of his testimony to support it either by deposition or at trial, his death extinguishes it. He can no longer be the subject of an impermissible classification and his vote can no longer be diluted.

3. No substitution should be permitted because to do so at this time would prejudice the Defendants. They were unable to depose or cross-examine Representative Newton and would have no opportunity to depose or cross-examine any substitute, particularly one whose identity is presently unknown.

Accordingly, this Court should dismiss the claims of Plaintiff Representative Demetrius Newton without prejudice.

Respectfully submitted this the 18th day of September, 2013

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**CERTIFICATE OF SERVICE**

I hereby certify that, on September 18, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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