IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

GLORIA PERSONHUBALLAH, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.: 3:13-cv-678
	)	
JAMES B. ALCORN, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS' SUBMISSION REGARDING
CANDIDATES FOR SPECIAL MASTER**

In response to the Court's order of September 3, 2015 (ECF No. 207), concerning

candidates for special master, Defendants respectfully recommend that the Court select one of

the following three individuals, listed in order of preference:

- **Professor Nathaniel Persily, Stanford Law School**. Professor Persily, who holds both

    a J.D. and a Ph.D. in political science, has published widely on redistricting issues,

    including a law-review article on court-drawn redistricting plans, *When Judges Carve*

    Democracies: A Primer on Court-Drawn Redistricting Plans, 73 G.W. UNIV. L. REV.

    1131 (2005). He has served as a special master or court-appointed expert—and drawn

    plans that have been adopted by courts—in numerous redistricting cases. *See Favors v.*

    Cuomo, No. 11-cv-5632, 2012 WL 928216 (E.D.N.Y. Mar. 12, 2012) (appointed to assist

    magistrate judge in drawing New York's congressional districts); *In re Reapportionment*

    Commission, No. SC 18907, 36 A.3d 661 (Conn. 2012) (appointed special master by

    Supreme Court of Connecticut to draw state's congressional districts); *Larios v. Cox*, 314

    F. Supp. 2d 1357 (N.D. Ga. 2004) (assisted special master in drawing Georgia's

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legislative districts; plan adopted at 314 F. Supp. 2d 1357); *In re Legislative Redistricting of State*, 805 A.2d 292 (Md. 2002) (appointed by Maryland Court of Appeals to draw the court's plan); *Rodriguez v. Pataki*, No. 02 Civ. 618 (RMB), 2002 WL 1058054 (S.D.N.Y. May 24, 2002) (appointed by Special Master to assist in drawing plan for New York's congressional districts). Professor Persily's curriculum vitae is available at

http://law.stanford.edu/wp-content/uploads/2015/06/Persily-cv-Feb-2015.pdf.

Because Professor Persily is a law professor with expertise in the Voting Rights Act, and a political scientist skilled in drawing redistricting maps, he would be an excellent choice.

- **Professor Bernard Grofman, University of California-Irvine**. Professor Grofman is the author and editor of multiple books and 175 articles on the political process, including voting-rights and redistricting issues. He has served as a consultant to parties in nearly twenty redistricting cases and co-authored amicus briefs in voting-rights cases before the Supreme Court. He has been a court-appointed expert in at least three redistricting cases: *Larios v. Cox*, Civ. Action No. 1:03-cv-693-CAP (N.D. Ga. 2004) (assisted special master in drawing Georgia's legislative districts; plan adopted at 314 F. Supp. 2d 1357); *Rodriguez v. Pataki*, No. 02 Civ. 618 (RMB), 2002 WL 1058054 (S.D.N.Y. May 24, 2002) (assisted special master in drawing plan for New York's congressional districts); and *Flateau v. Anderson*, No. 82 Civ. 876 (S.D.N.Y. 1982) (assisted special master in devising congressional and legislative districts pursuant to decision at 537 F. Supp. 257). Professor Grofman's curriculum vitae is available at

http://www.socsci.uci.edu/~bgrofman/bgrofmanCV.doc.

- **Professor Bruce Cain, Stanford University**. Professor Cain has written widely on redistricting issues, including numerous articles and the book *Congressional Redistricting* (Macmillan 1992), and he has served as a consultant to a number of governmental organizations during redistricting processes. He was appointed special master by a three-judge panel in *Navajo Nation v. Arizona Independent Redistricting Commission*, 230 F. Supp. 2d 998 (D. Ariz. 2002). Professor Cain's curriculum vitae is available at https://politicalscience.stanford.edu/sites/default/files/cain.full_.cv_.1214a.pdf.

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Defendants note that they have not contacted these candidates—or any of the other candidates identified by the Court during the September 2 teleconference—and are unaware of their availability to serve as special master.

With one exception, Defendants do not oppose the Court's appointing a special master from among the other candidates it identified: Theodore Arrington, Richard Engstrom, William S. Cooper, Ronald E. Weber, and Allan Lichtman. The Court should not appoint John Alford as special master. In a 2012 case involving Texas's redistricting plan, the United States District Court for the District of Columbia rejected Alford's analytical approach (using a statewide approach to determining retrogression) as lying "outside accepted academic norms among redistricting experts." *Texas v. United States*, 887 F. Supp. 2d 133, 146 (D.D.C. 2012), *vacated and remanded on other grounds*, 133 S. Ct. 2885 (2013). The court in that case also noted that Alford, who served as an expert for the State of Texas, refused to answer questions about whether the enacted plans were retrogressive, "even when this Court directly questioned him on the point." *Id.* at 140 n.6. The other candidates under consideration would be better-suited to serve as special master here.

Respectfully submitted,

JAMES B. ALCORN, CLARA BELLE WHEELER
And SINGLETON MCALLISTER, in their official
capacities as members of the Virginia State Board of
Elections

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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2015, I electronically filed this document with the

Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF)

to the counsel of record for the parties.

By: /s/
Stuart A. Raphael

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