

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

ALABAMA LEGISLATIVE BLACK	)	
CAUCUS, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	CASE NO. 2:12-CV-691
	)	(Three-Judge Court)
v.	)	
	)	
THE STATE OF ALABAMA, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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ALABAMA DEMOCRATIC	)	
CONFERENCE, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	CASE NO. 2:12-CV-1081
	)	(Three-Judge Court)
v.	)	
	)	
THE STATE OF ALABAMA, <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**Defendants’ Motion to Amend the Briefing Schedule,  
for Leave to Conduct Limited Discovery,  
and to Shorten Time for Discovery Responses**

In regard to the new plans submitted by the Plaintiffs in response to the Court’s order (doc. 283), Defendants, pursuant to Rule 26(b) of the Federal Rules of Civil Procedure and other applicable provisions, move that the court amend the briefing schedule to provide an additional three weeks for Defendants to file a

responsive brief (through November 13, 2015). Defendants also seek leave to conduct limited discovery concerning the new plans, and they ask that the Court shorten the time for responding to those requests. In support of this motion, Defendants state as follows:

**Statement of the parties' positions:** Counsel for Defendants discussed this motion with counsel for Plaintiffs, and Plaintiffs oppose the motion. As Defendants understand Plaintiffs' position, both sets of Plaintiffs would prefer that the parties assess the need for more time and additional discovery after the conclusion of depositions scheduled for next week. However, as discussed herein, the information Defendants seek through the requested discovery could not come from the drafters of the plans, and waiting until after the depositions would not permit time for the requested discovery, should the court grant leave.

1. This Court ordered the Plaintiffs to submit new plans that complied with the Legislature's population deviation requirement and other Legislative guidelines. (Doc. 283). The Court ordered Defendants to respond to those plans within 28 days. *Id.*

2. On September 25, 2015, the ALBC plaintiffs and the ADC plaintiffs filed new plans for the House and Senate. (*See* docs. 285, 287). Defendants' response is thus currently due on October 23, 2015.

3. The ALBC plaintiffs submitted 193 exhibits, maps, and charts with their plan, as well as a 109-page brief. (Doc. 285, 286). The ADC plaintiffs submitted a brief of 32 pages and 37 exhibits. (Doc. 287).

4. Although there is already a great deal of information about the new plans to digest, additional information is needed to assess the plans, including, without limitation, the political viability of the plans. The ALBC Plaintiffs make clear that the plans are a “redistricting exercise” and “are not presented as proposed remedial plans, because they have had no input from plaintiff ALBC members or from other members of the Legislature.” (Doc. 285 at 6). The ADC Plaintiffs state that they “do not expect or propose that the plans will or should be adopted either by the State or by the Court.”(Doc. 287 at 5). Nonetheless, when considering what, if anything, the new plans prove, the Court should consider them not in a vacuum but within political realities. Defendants’ proposed discovery thus asks whether Plaintiffs would support the plans (and if not, why not), whether the plans adequately provide opportunities for black voters to elect their candidate of choice, and whether the members of ADC and ALBC believe that the plans satisfy constitutional and statutory requirements.

5. In addition, for the ADC plan, information is needed about voting age population, incumbent residences, precinct splits, and similar information to assess the plan. For example, ALBC provided charts showing, for each precinct split, the racial composition of each portion of the precinct. (ALBC ex. APSX 633). Having the same information for the new ADC plan will assist the Court and the parties in

making accurate comparisons. Moreover, while the ADC plaintiffs provided overlay maps as the Court requested, the overlays make the maps difficult to read. Defendants will seek “clean” copies of the ADC 1% plan to better identify the new proposed district lines. (Counsel for Defendants and Counsel for the ADC Plaintiffs have already begun discussions about receiving “clean” maps and loading the ADC plan into the Reapportionment Office’s system, which would make the needed information available; it thus appears that at least some of the information requested in the proposed requests for production will be provided voluntarily or through other means).

6. For these reasons, Defendants seek leave to propound the discovery requests attached hereto as Exhibits 1 and 2.

7. Defendants are scheduled to depose the drafters of the new plans on October 6 and 7, 2015. To have sufficient time to assess and respond to the volume of material already supplied, the upcoming deposition testimony, and the additional information sought, Defendants seek an extension of three weeks, until November 13, 2015, to respond to the plans.

8. In order to have time to fully incorporate discovery responses into their brief, Defendants ask that the Court shorten the time for a response so that Plaintiffs’ discovery responses will be due on or before October 26, 2015.

WHEREFORE, Defendants move the Court to extend the deadline for Defendants’ brief for three weeks, with a due date of November 13, 2015; to enter an

order permitting the attached limited discovery by the Defendants; and to enter an order requiring that Plaintiffs respond to such discovery on or before October 26, 2015.

Respectfully submitted,

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### CERTIFICATE OF SERVICE

I hereby certify that, on September 29, 2015, 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 counsel of record:

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