

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BOBBY SINGLETON, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 2:21-cv-01291-AMM
)	
WES ALLEN, in his official)	THREE-JUDGE COURT
capacity as Alabama Secretary of State,)	
<i>et al.</i> ,)	
)	
Defendants.)	

***SINGLETON* PLAINTIFFS' RESPONSES TO DEFENDANT SECRETARY
OF STATE WES ALLEN'S DISCOVERY REQUESTS**

Pursuant to Fed. R. Civ. P. 26, 33, and 36, the *Singleton* Plaintiffs hereby object and respond to Alabama Secretary of State Wes Allen's Discovery Requests.

General Statement

The *Singleton* Plaintiffs have relied on the information presently available to them. Further or different information may be discovered as litigation continues, and the *Singleton* Plaintiffs reserve the right to amend their answers. The *Singleton* Plaintiffs will amend their Objections and Responses to the extent required under Fed. R. Civ. P. 26.

The *Singleton* Plaintiffs' Answers to each Discovery Request are made subject to all objections as to privilege, competence, relevance, materiality,

propriety, and admissibility, as well as any and all other objections and grounds that would require the exclusion of evidence. The *Singleton* Plaintiffs reserve the right to make any and all such objections at the appropriate time.

General Objections

The *Singleton* Plaintiffs object to the Instructions to the extent that they purport to impose any requirements or obligations different from those contained in the Federal Rules of Civil Procedure, the local Rules of this Court, applicable orders of the Court, and/or related agreements.

The *Singleton* Plaintiffs further object to each and every request that is not “separately stated” as required by Fed. R. Civ. P. 36(a)(2).

Objections to the Definitions

1. The *Singleton* Plaintiffs object to all definitions in the Requests (the “Definitions”) to the extent they are vague, confusing, and overbroad. The *Singleton* Plaintiffs will interpret the Requests reasonably and in good faith, in accordance with common English usage.

2. The *Singleton* Plaintiffs object to any directions, definitions, or instructions contained in the Requests to the extent they alter the generally understood definitions under the Federal Rules of Civil Procedure and the Local Rules of this Court.

3. The *Singleton* Plaintiffs object to the definition of “Black Belt” on the ground that there is no universally accepted list of counties that compose the Black Belt. For purposes of responding to the Requests, however, the *Singleton* Plaintiffs will use the definition in the Requests.

ANSWERS AND OBJECTIONS TO SPECIFIC INTERROGATORIES

1. How do you contend that the 2021 Plan violates the Equal Protection Clause?

RESPONSE: The 2021 Plan violates the Equal Protection Clause for the reasons explained in the *Singleton* Plaintiffs’ Amended Complaint, Doc. No. 15; their Renewed Motion for a Preliminary Injunction and Memorandum of Law in Support, Doc. No. 57; their reply in support of that motion, Doc. No. 76; and their Proposed Findings of Fact and Conclusions of Law, Doc. No. 84. After the *Singleton* Plaintiffs made those filings, the United States District Court for the Middle District of Florida held, consistent with the *Singleton* Plaintiffs’ theory of liability, that the City of Jacksonville likely violated the Equal Protection Clause when it adopted City Council districts substantially similar to previous districts that separated voters by race. *Jacksonville Branch of the NAACP v. City of Jacksonville*, 2022 WL 7089087 (M.D. Fla. Oct. 12, 2022). On appeal, a panel of the Eleventh Circuit found “no clear error in [the district court’s] conclusion that race was substantially likely a

predominant factor in the redistricting process.” 2022 WL 16754389, at *3 (11th Cir. Nov. 7, 2022).

2. Identify any and all aspects of the 2021 Plan that you contend represent “deviations from traditional redistricting principles.” See Milligan Doc. 1 ¶ 8.

RESPONSE: Preserving whole counties, when consistent with the “one person, one vote” standard, is a traditional redistricting principle. The 2021 Plan follows the 1992, 2001, and 2011 Plans’ violation of this principle of whole-county districting by splitting Jefferson, Montgomery, and Tuscaloosa Counties. Moreover, the 2021 Plan splits these counties along racial lines without any analysis of whether doing so is required by the Voting Rights Act, violating the Legislature’s own redistricting guideline that “No district will be drawn in a manner that subordinates race-neutral districting criteria to considerations of race, color, or membership in a language-minority group, except that race, color, or membership in a language-minority group may predominate over race-neutral districting criteria to comply with Section 2 of the Voting Rights Act, provided there is a strong basis in evidence in support of such a race-based choice.” The *Singleton* Plaintiffs further rely on their Amended Complaint, Doc. No. 15 at ¶¶ 1–7, 19–53, 56–79; their Renewed Motion for a Preliminary Injunction and Memorandum of Law in Support, Doc. No. 57 at 1–22,

27–41; their reply in support of that motion, Doc. No. 76; and their Proposed Findings of Fact and Conclusions of Law, Doc. No. 84 at 2–38.

3. Who do you contend made decisions predominately on the basis of race in connection with the 2021 Plan, and what decisions did they make predominately on the basis of race?

RESPONSE: Because Secretary Allen has admitted that “the 2001 and 2011 maps maintained the cores of districts [from the 1992 map], changing those cores only to equalize population,” Response to Request for Admission No. 57, and that “[c]ompared to the 2011 plan, the 2021 map represents a ‘least change approach[,]” decisions made in connection with the 1992, 2001, and 2001 Plans are also made “in connection with” the 2021 Plan. The *Singleton* Plaintiffs’ contentions in this regard are in their Amended Complaint, Doc. No. 15 at ¶¶ 1–2, 5–6, 12–15, 17, 24–32, 38–41, 46–52, 56–58, 61–66, 74, 76–79; their Renewed Motion for a Preliminary Injunction and Memorandum of Law in Support, Doc. No. 57 at 1–22, 27–41; their reply in support of that motion, Doc. No. 76; and their Proposed Findings of Fact and Conclusions of Law, Doc. No. 84 at 2–38. Those contentions include, but are not limited to, the following:

- The parties in *Wesch v. Hunt* stipulated that a district whose population is at least 65% Black should be created, and the Court honored that stipulation by creating a district that split Jefferson, Montgomery, and Tuscaloosa Counties

along racial lines. 785 F. Supp. 1491, 1498–99 (S.D. Ala. 1992). Secretary Merrill has stated that “District 7 appears to be racially gerrymandered, with a finger sticking up from the black belt for the sole purpose of grabbing the black population of Jefferson County.” *Chestnut v. Merrill*, No. 2:18-CV-00907-KOB (N.D. Ala. Oct. 28, 2019), Doc. 101 (Defendant Merrill’s pretrial brief) at 11.

- The 2001 Alabama Legislature enacted the 2001 Plan, which was substantially similar to the 1992 Plan.
- Randy Hinaman drafted the 2011 Plan with the goal of maintaining District 7 as a majority-black district.
- The 2011 Alabama Legislature enacted the 2011 Plan, which was substantially similar to the 2001 Plan and was drafted with the goal of maintaining District 7 as a majority-black district.
- Dorman Walker, who was counsel to the Reapportionment Committee in 2021, and Mr. Hinaman advised the Committee (incorrectly) that the Voting Rights Act required a majority-minority district, and advised voting against a whole-county plan offered by the League of Women Voters because it did not include a majority-minority district. This advice was contained in “talking points” provided to Committee Chairs Senator Jim McClendon and Representative Chris Pringle.

- Senator McClendon and Representative Pringle used these talking points during the debate on redistricting. Senator McClendon has testified that that he would not vote for the plan offered by the League of Women Voters because it did not have a majority-minority district.
- The 2021 Alabama House of Representatives, having been advised (incorrectly) that the Voting Rights Act required a majority-minority district, voted in favor of the 2021 Plan and rejected alternative plans.
- The 2021 Alabama Senate, having been advised (incorrectly) that that the Voting Rights Act required a majority-minority district, voted in favor of the 2021 Plan.
- The 2021 Alabama Legislature enacted the 2021 Plan, which represented a “least change approach” from the deliberately race-driven 2011 Plan.

4. If you contend that the Equal Protection Clause required the 2021 Legislature to enact a plan based on 2020 census data that included majority-minority districts or Opportunity Districts, explain the factual and legal bases for your contention, including how many such districts the Constitution required the Legislature to draw and the percentage BVAP required for each district.

RESPONSE: As set out in their Amended Complaint, their Renewed Motion for a Preliminary Injunction and Memorandum of Law in Support, their reply in support of that motion, and their Proposed Findings of Fact and Conclusions of Law, the

Singleton Plaintiffs contend that the Equal Protection Clause prohibited the Legislature from enacting a racially gerrymandered plan without first determining whether a plan drawn without perpetuating the previous racial gerrymanders and without reference to race would have complied with the Voting Rights Act. They do not contend the Equal Protection Clause required any racial target.

5. Explain how you contend any alleged racial gerrymander in the 2021 Plan should be remedied.

RESPONSE: The racial gerrymander in the 2021 Plan should be remedied with a plan that adheres to the traditional redistricting principle of keeping counties whole (or makes only minor splits to counties solely to equalize population) and complies with the Voting Rights Act and the Equal Protection Clause.

6. If you contend that race did not predominate in Dr. Duchin's Illustrative Plans (from Milligan Doc. 88-3 at 7) but that race did predominate in the 2021 Plan, identify and explain the relevant differences between the plans that show, in your view, that race did not predominate in Dr. Duchin's plans but did predominate in the 2021 Plan.

RESPONSE: The *Singleton* Plaintiffs make no contentions regarding Dr. Duchin's Illustrative Plans.

7. If you contend that race did not predominate in the Singleton Whole-County Plan but that race did predominate in the 2021 Plan, identify and explain the

relevant differences between the plans that show, in your view, that race did not predominate in the Singleton Whole County Plan but did predominate in the 2021 Plan.

RESPONSE: The 2021 Plan splits Jefferson, Montgomery, and Tuscaloosa Counties along racial lines, while the *Singleton* Whole County Plan does not split counties at all. Race predominates in the 2021 Plan as explained in the *Singleton* Plaintiffs’ Amended Complaint, Doc. No. 15 at ¶¶ 1–7, 19–53, 56–79; their Renewed Motion for a Preliminary Injunction and Memorandum of Law in Support, Doc. No. 57 at 1–22, 27–41; their reply in support of that motion, Doc. No. 76; and their Proposed Findings of Fact and Conclusions of Law, Doc. No. 84 at 2–38.

ANSWERS AND OBJECTIONS TO SPECIFIC REQUESTS FOR PRODUCTION

1. Produce any documents or records concerning any effort you undertook to draw an Alabama congressional districting plan with more than one Opportunity District using 2020 census data.

RESPONSE: No such documents exist because the *Singleton* Plaintiffs did not undertake to draw an Alabama congressional districting plan with more than one Opportunity District using 2020 census data.

2. Produce any documents or records concerning any effort you undertook to draw an Alabama congressional districting plan with more than one majority-BVAP district using 2020 census data.

RESPONSE: No such documents exist because the *Singleton* Plaintiffs did not undertake to draw an Alabama congressional districting plan with more than one majority-BVAP district using 2020 census data.

**ANSWERS AND OBJECTIONS TO SPECIFIC REQUESTS FOR
ADMISSION**

1. Admit that members of Alabama’s Congressional delegation provided input in the drafting of the 2021 Plan.

RESPONSE: Admitted.

2. Admit that preserving the cores of districts was a consideration in the drafting of the 2021 Plan.

RESPONSE: Admitted.

3. Admit that core preservation is a traditional districting criterion.

RESPONSE: Admitted.

4. Admit that, on May 5, 2021, the Reapportionment Committee of the Alabama Legislature passed the Redistricting Guidelines to be used by the Committee during the redistricting process.

RESPONSE: Admitted.

5. Admit that those Guidelines passed on a 16-1 vote, with both Republicans and Democrats as well as black and white legislators supporting the Guidelines.

RESPONSE: Admitted.

6. Admit that one redistricting guideline that the Alabama Reapportionment Committee adopted is that “Congressional districts shall have minimal population deviation.”

RESPONSE: Admitted.

7. Admit that one redistricting guideline that the Alabama Reapportionment Committee adopted is that “A redistricting plan considered by the Reapportionment Committee shall comply with the one person, one vote principle of the Equal Protection Clause of the 14th Amendment to the United States Constitution.”

RESPONSE: Admitted this guideline appears in Criterion II.d., but denied that this guideline can be applied in isolation from other guidelines. For example, Criterion II.b states, “Congressional districts shall have minimal population deviation.” As another example, Criterion II.g specifies further how to comply with the Equal Protection Clause: “No district will be drawn in a manner that subordinates race-neutral districting criteria to considerations of race, color, or membership in a language-minority group, except that race, color, or membership in a language-minority group may predominate over race-neutral districting criteria to comply with Section 2 of the Voting Rights Act, provided there is a strong basis in evidence in support of such a race-based choice. A strong basis in evidence exists when there is

good reason to believe that race must be used in order to satisfy the Voting Rights Act.” Otherwise denied.

8. Admit that the discernment, weighing, and balancing of the varied factors that contribute to communities of interest is an intensely political process.

RESPONSE: The *Singleton* Plaintiffs object to and deny this request as not answerable. What is meant by “contribute to communities of interest” is unclear. And the term “intensely political process” is not sufficiently defined to allow the *Singleton* Plaintiffs to respond to this statement. Moreover, the statement does not specify who is discerning, weighing, and balancing these factors.

9. Admit that it is possible to draw whole-county maps with smaller overall population deviations than 2.46%.

RESPONSE: Admitted that it is possible to draw whole-county maps with slightly lower population deviations, but that—as the Defendants’ expert Thomas Bryan testified—no whole-county maps with a smaller deviation “make some kind of districting sense for Alabama,” and such maps are “ridiculous looking” and “will all virtually fail if you hold them to any other criteria.”

10. Admit that race could predominate when drawing a whole-county plan if race was the predominant reason that certain counties were put together in a district or separated among two or more districts.

RESPONSE: Admitted.

11. (Singleton Plaintiffs only): Admit that one non-negotiable goal when drafting the Singleton Whole-County Plan was creating two Opportunity Districts.

RESPONSE: Denied.

12. (Plaintiffs Singleton and Smitherman only): Admit that you would not have supported the Singleton Whole-County Plan if it did not create two Opportunity Districts.

RESPONSE: Senators Singleton and Smitherman are without sufficient information to admit or deny this matter because it posits a hypothetical version of Alabama with different demographics or voting patterns (or both) that are unspecified.

13. Admit that one redistricting guideline that the Alabama Reapportionment Committee adopted is that “[t]he Legislature shall try to preserve the cores of existing districts.”

RESPONSE: Admitted this guideline appears in Criterion II.j(5), but denied that this guideline can be applied in isolation from other guidelines. All criteria within Criterion II.j “shall be observed to the extent that they do not violate or subordinate the foregoing policies prescribed by the Constitution.” For example, Criterion II.j(5) cannot be applied if it would violate Criterion II.g, which states: “No district will be drawn in a manner that subordinates race-neutral districting criteria to considerations of race, color, or membership in a language-minority group, except that race, color,

or membership in a language-minority group may predominate over race-neutral districting criteria to comply with Section 2 of the Voting Rights Act, provided there is a strong basis in evidence in support of such a race-based choice. A strong basis in evidence exists when there is good reason to believe that race must be used in order to satisfy the Voting Rights Act.” Otherwise denied.

14. Admit that the 2021 Plan preserved the cores of districts from the 2011 Plan.

RESPONSE: Admitted.

15. Admit that the 2011 Plan preserved the cores of districts from the 2002 Plan.

RESPONSE: Admitted.

16. Admit that the 2002 Plan preserved the cores of districts from the 1992 Plan.

RESPONSE: Admitted.

17. Admit that the 2002 Plan was sponsored by Senator Hank Sanders.

RESPONSE: Admitted.

18. Admit that Senator Hank Sanders is a black Democrat.

RESPONSE: Admitted that Senator Sanders is Black and was elected as a Democrat.

19. Admit that a majority of the black members of Alabama Legislature in 2002 voted to approve the 2002 Plan.

RESPONSE: Admitted.

20. Admit that in the early-1990's, the Department of Justice applied a "Black-maximization" policy in its enforcement of Section 5 of the Voting Rights Act. *See Miller v. Johnson*, 515 U.S. 900, 921-23 (1995).

RESPONSE: Admitted.

21. Admit that Dr. Moon Duchin's Illustrative Plan A (shown in Milligan Doc. 88-3 at 7) assigns residents of Mobile County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

22. Admit that Dr. Moon Duchin's Illustrative Plan A (shown in Milligan Doc. 88-3 at 7) assigns residents of Jefferson County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

23. Admit that Dr. Moon Duchin's Illustrative Plan A (shown in Milligan Doc. 88-3 at 7) assigns residents of Houston County to congressional districts on the basis of race. Admit that Dr. Moon Duchin's Illustrative Plan B (shown in Milligan

Doc. 88-3 at 7) assigns residents of Mobile County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

24. Admit that Dr. Moon Duchin's Illustrative Plan B (shown in Milligan Doc.88-3 at 7) assigns residents of Jefferson County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

25. Admit that Dr. Moon Duchin's Illustrative Plan C (shown in Milligan Doc. 88-3 at 7) assigns residents of Mobile County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

26. Admit that Dr. Moon Duchin's Illustrative Plan C (shown in Milligan Doc. 88-3 at 7) assigns residents of Jefferson County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

27. Admit that Dr. Moon Duchin's Illustrative Plan C (shown in Milligan Doc. 88-3 at 7) assigns residents of Tuscaloosa County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

28. Admit that Dr. Moon Duchin's Illustrative Plan D (shown in Milligan Doc. 88-3 at 7) assigns residents of Mobile County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

29. Admit that Dr. Moon Duchin's Illustrative Plan D (shown in Milligan Doc. 88-3 at 7) assigns residents of Jefferson County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

30. Admit that the Hatcher Plan assigns residents of Mobile County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

31. Admit that the Hatcher Plan assigns residents of Jefferson County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

32. Admit that the Hatcher Plan assigns residents of Tuscaloosa County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

33. Admit that the Hatcher Plan assigns residents of Russell County to congressional districts on the basis of race.

RESPONSE: The *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

34. Admit that each Congressional districting plan drawn by Bill Cooper and offered by the Caster Plaintiffs during the preliminary injunction phase of this litigation split the Black Belt among at least three districts.

RESPONSE: Subject to their objection regarding the definition of “Black Belt,” the *Singleton* Plaintiffs admit that the illustrative plans described on pages 23 to 35 of Document No. 48 in the *Caster* case split the Black Belt among at least three districts. Otherwise, the *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

35. Admit that each Congressional districting plan drawn by Dr. Moon Duchin and offered by the Milligan Plaintiffs during the preliminary injunction phase of this litigation split the Black Belt among at least three districts.

RESPONSE: Subject to their objection regarding the definition of “Black Belt,” the *Singleton* Plaintiffs admit that the illustrative plans shown on pages 4 of Exhibit 1 to Document No. 68-5 in the *Milligan* case split the Black Belt among at least three districts. Otherwise, the *Singleton* Plaintiffs are without sufficient information to admit or deny this matter.

36. Admit that the Singleton Whole-County Plan splits the Black Belt among at least three districts.

RESPONSE: Subject to the *Singleton* Plaintiffs’ objection regarding the definition of “Black Belt,” admitted.

37. Admit that the Hatcher Plan splits the Black Belt among four districts.

RESPONSE: Subject to the *Singleton* Plaintiffs’ objection regarding the definition of “Black Belt,” admitted.

38. Admit that for each Congressional districting plan used by Alabama since 1833, Black Belt counties have been split among at least three districts. See Singleton Doc. 57-7 at 5-43.

RESPONSE: Subject to the *Singleton* Plaintiffs’ objection regarding the definition of “Black Belt,” admitted.

39. Admit that the 2021 Plan splits the Black Belt among only three districts.

RESPONSE: Subject to the *Singleton* Plaintiffs’ objection regarding the definition of “Black Belt,” admitted.

40. Admit that the 18 core Black Belt counties cannot fit into a single congressional district in a plan that ensures minimal population deviation between districts.

RESPONSE: Subject to the *Singleton* Plaintiffs’ objection regarding the definition of “Black Belt,” admitted.

41. (For Senators Singleton and Smitherman only): Admit that you were a member of the Alabama Reapportionment Committee in 2021.

RESPONSE: Admitted.

42. (For Senator Singleton only): Admit that you voted in favor of the Reapportionment Committee’s 2021 Redistricting Guidelines.

RESPONSE: Admitted.

43. (For Senators Singleton and Smitherman only): Admit that those Guidelines provided that core retention was a policy interest that the Reapportionment Committee would seek to honor in its districting plans.

RESPONSE: Admitted that Criterion II.j.(5) states: “The Legislature shall try to preserve the cores of existing districts, but denied that this guideline can be applied

in isolation from other guidelines. All criteria within Criterion II.j “shall be observed to the extent that they do not violate or subordinate the foregoing policies prescribed by the Constitution.” For example, Criterion II.j(5) cannot be applied if it would violate Criterion II.g, which states: “No district will be drawn in a manner that subordinates race-neutral districting criteria to considerations of race, color, or membership in a language-minority group, except that race, color, or membership in a language-minority group may predominate over race-neutral districting criteria to comply with Section 2 of the Voting Rights Act, provided there is a strong basis in evidence in support of such a race-based choice. A strong basis in evidence exists when there is good reason to believe that race must be used in order to satisfy the Voting Rights Act.” Otherwise denied.

44. Admit that, following the 2020 Census, the Census Bureau was statutorily required to release redistricting data to the States no later than April 1, 2021. 13 U.S.C. § 141.

RESPONSE: Admitted.

45. Admit that, in February 2021, the Census Bureau issued a press release stating that it would not release the redistricting data until September 30, 2021.

RESPONSE: Admitted.

46. Admit that, on March 10, 2021, the State of Alabama sued the Census Bureau to require it to comply with the statutory deadline. *See Alabama v. United*

States Dep't of Com., No. 3:21-CV-211-RAH-ECM-KCN, (M.D. Ala.) (three-judge court).

RESPONSE: Admitted.

47. Admit that, on March 15, 2021, the Census Bureau issued a further press release stating it could provide redistricting data in a legacy format by mid-to-late August 2021.

RESPONSE: Admitted.

48. Admit that the Alabama Legislature received initial 2020 Census data from the United States Bureau of the Census on August 12, 2021.

RESPONSE: Admitted.

49. Admit that the Reapportionment Committee held 28 public hearings at locations around the State between September 1 and September 16, 2021.

RESPONSE: Admitted.

50. Admit that the public could attend these hearings in person or via videoconference.

RESPONSE: Admitted.

51. Admit that, on October 25, 2021, Alabama Governor Kay Ivey officially called for the Legislature to convene in a special session to address redistricting.

RESPONSE: Admitted.

52. Admit that, on October 26, 2021, the Reapportionment Committee met and considered a draft congressional plan.

RESPONSE: Admitted that the Committee met to consider the Congressional Plan, but denied that any consideration was given to its merits beyond determining that it contained a majority-Black district.

53. Admit that, on October 28, 2021, the special session began and the Congressional Plan (then H.B. 1) was assigned to the House Committee on State Government.

RESPONSE: Admitted.

54. Admit that, on October 29, 2021, the Congressional Plan (in addition to three other redistricting plans) was voted out of the House Committee on State Government.

RESPONSE: Admitted.

55. Admit that, on November 1, 2021, the Alabama House of Representatives considered the Congressional Plan.

RESPONSE: Admitted that the Congressional Plan was submitted to the House, but denied that any consideration was given to its merits beyond determining that it contained a majority-Black district.

56. Admit that, on November 1, 2021, the Alabama House of Representatives passed the Congressional Plan 65-38.

RESPONSE: Admitted.

57. Admit that, in addition to every Democratic Representative, several Republicans in the Alabama House of Representatives voted against the plan.

RESPONSE: Admitted.

58. Admit that one black Representative, Rep. Kenneth Paschal, voted in favor of the Congressional Plan.

RESPONSE: Admitted.

59. Admit that, on November 2, 2021, the Senate General Fund and Appropriations Committee considered the Congressional Plan.

RESPONSE: Admitted that the Committee met to consider the Congressional Plan, but denied that any consideration was given to its merits beyond determining that it contained a majority-Black district.

60. Admit that, on November 2, 2021, the Senate General Fund and Appropriations Committee voted the Congressional Plan out of Committee.

RESPONSE: Admitted.

61. Admit that, on November 3, 2021, the Alabama Senate forwarded the Congressional Plan to Alabama Governor Kay Ivey.

RESPONSE: Admitted.

62. Admit that, on November 4, 2021, Governor Ivey signed the Congressional Plan into law.

RESPONSE: Admitted.

63. Admit that, on July 23, 2021 a special election was held to fill a vacancy in District 73 of the Alabama House of Representatives.

RESPONSE: Admitted.

64. Admit that, Kenneth Paschal, the Republican candidate, won the July 23, 2021 special election to fill the vacancy in District 73 of the Alabama House of Representatives with 2,743 votes.

RESPONSE: Admitted.

65. Admit that Rep. Paschal's white Democratic opponent received 920 votes.

RESPONSE: Admitted.

66. Admit that House District 73 is located in Shelby County, Alabama.

RESPONSE: Admitted.

67. Admit that, based on 2010 census data, the voting-age population of Alabama House District 73 was 84.12% white and 9.75% black. (See ALBC doc. 338-1).

RESPONSE: Admitted.

68. Admit that Rep. Paschal defeated a white Republican candidate in the primary election.

RESPONSE: Admitted.

69. Admit that, under the 2002 Plan, in the 2008 election three Democrats won seats in Congress from Alabama—namely, Bobby Bright, Parker Griffith, and Artur Davis.

RESPONSE: Admitted.

70. Admit that Sen. Bobby Singleton and Sen. Roger Smitherman served on the Reapportionment Committee for the 2011 Plan.

RESPONSE: Admitted.

71. Admit that the 2011 Plan was precleared by the United States Department of Justice pursuant to Section 5 of the Voting Rights Act, currently codified at 52 U.S.C. § 10304.

RESPONSE: Admitted.

72. Admit that the 2011 Plan was never declared unlawful by any court of competent jurisdiction.

RESPONSE: Admitted, but denied that the 2011 Plan was lawful. In 2019, Secretary Merrill stated that “District 7 appears to be racially gerrymandered, with a finger sticking up from the black belt for the sole purpose of grabbing the black population of Jefferson County. Defendant [Merrill] does not believe the law would permit Alabama to draw that district today.” *Chestnut v. Merrill*, No. 2:18-CV-00907-KOB (N.D. Ala. Oct. 28, 2019), Doc. 101 (Defendant Merrill’s pretrial brief) at 11. In *Chestnut v. Merrill*, the Secretary prevailed not because the 2011 Plan was

lawful (in fact, the court held that the plaintiffs plausibly alleged a violation of Section 2 of the Voting Rights Act), but because it was too late in the decennial districting cycle to order relief. 377 F. Supp. 3d 1308 (N.D. Ala. 2019).

73. Admit that Jerry Carl currently represents Alabama's Congressional District 1.

RESPONSE: Admitted.

74. Admit that Jerry Carl represented Alabama's Congressional District 1 at the time that the 2021 Plan was drawn.

RESPONSE: Admitted.

75. Admit that Barry Moore currently represents Alabama's Congressional District 2.

RESPONSE: Admitted.

76. Admit that Barry Moore represented Alabama's Congressional District 2 at the time that the 2021 Plan was drawn.

RESPONSE: Admitted.

77. Admit that Mike Rogers currently represents Alabama's Congressional District 3.

RESPONSE: Admitted.

78. Admit that Mike Rogers represented Alabama's Congressional District 3 at the time that the 2021 Plan was drawn.

RESPONSE: Admitted.

79. Admit that Robert Aderholt currently represents Alabama's Congressional District 4.

RESPONSE: Admitted.

80. Admit that Robert Aderholt represented Alabama's Congressional District 4 at the time that the 2021 Plan was drawn.

RESPONSE: Admitted.

81. Admit that Dale Strong currently represents Alabama's Congressional District 5.

RESPONSE: Admitted.

82. Admit that Gary Palmer currently represents Alabama's Congressional District 6.

RESPONSE: Admitted.

83. Admit that Gary Palmer represented Alabama's Congressional District 6 at the time that the 2021 Plan was drawn.

RESPONSE: Admitted.

84. Admit that Terri Sewell currently represents Alabama's Congressional District 7.

RESPONSE: Admitted.

85. Admit that Terri Sewell represented Alabama’s Congressional District 7 at the time that the 2021 Plan was drawn.

RESPONSE: Admitted.

86. Admit that District 7 was underpopulated when the 2020 Census numbers were input into the 2011 Plan, and thus District 7 needed to pick up population.

RESPONSE: Admitted.

87. Admit that U.S. Rep. Terri Sewell wanted to pick up universities, facilities, companies, and military bases in expanding District 7 to gain population.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

88. Admit that U.S. Rep. Terri Sewell did not want Alabama State University split between two Congressional Districts and instead wanted the entire Acadome precinct in her District.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

89. Admit that the 2021 Plan puts the entire Acadome precinct—which includes Alabama State University—in District 7.

RESPONSE: Admitted.

90. Admit that that the 2021 Plan puts Maxwell Air Force Base in District 7.

RESPONSE: Admitted.

91. Admit that U.S. Rep. Terri Sewell wanted a family home, which is in Selma, in her Congressional District.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

92. (For Milligan plaintiffs only): Admit that, using Maptitude and Dave's Redistricting, Milligan Plaintiff Evan Milligan and some associates of his who had taken map-making training courses tried to draw a Congressional map that would include two majority-black or two majority-non-white districts and they were unsuccessful.

RESPONSE: Not applicable.

93. Admit that racial polarization analyses are performed for a draft district to determine whether the district is likely to result in minority voters in the district being able to elect the candidate of their choice.

RESPONSE: Denied that this accurately states the purpose of racial polarization studies, and denied that any such studies were performed by the Legislature prior to enactment of the 2021 Congressional Plan. Otherwise denied.

94. Admit that on October 19, 2021, the NAACP Legal Defense & Educational Fund, Inc., the American Civil Liberties Union Voting Rights Project, and the American Civil Liberties Union of Alabama sent a letter to the Alabama Legislative Reapportionment Committee asserting that the organizations’ 16 “preliminary analysis reveals that BVAP percentages in excess of a bare majority (i.e., 50%+1) are unnecessary in many parts of the state for Black voters to elect their candidates of choice” See <https://www.naacpldf.org/wp-content/uploads/Letter-to-AL-Reapportionment-Committee-20211019-1-1.pdf>.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

95. Admit that a racial polarization analysis was not required in 2021 for legislators to know that District 7 in HB 1, with a single-race BVAP of 54%, was likely to result in black voters in District 7 being able to elect the candidate of their choice.

RESPONSE: Admitted.

96. Admit that in 2021 you did not need a racial polarization analysis to know that District 7 in HB 1, with a single-race BVAP of 54%, was likely to result in black voters in District 7 being able to elect the candidate of their choice.

RESPONSE: Admitted.

97. Admit that District 7, with a single-race BVAP of 54%, is likely to result in black voters in District 7 being able to elect the candidate of their choice.

RESPONSE: Admitted.

98. Admit that the draft congressional plan proposed to the Alabama Legislative Reapportionment Committee by the NAACP Legal Defense & Educational Fund, Inc., the American Civil Liberties Union Voting Rights Project, and the American Civil Liberties Union of Alabama in the organizations' October 19, 2021 letter contained splits in 13 counties.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

99. Admit that the only congressional plan introduced during the Legislature's 2021 special session on redistricting that contained at least two majority-black districts contained splits in 13 counties.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

100. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan that created two majority-black congressional districts.

RESPONSE: Admitted that the Equal Protection Clause did not require creation of two majority-black congressional districts and that the following language in

Criterion II.g. specifies further how to comply with the Equal Protection Clause: “No district will be drawn in a manner that subordinates race-neutral districting criteria to considerations of race, color, or membership in a language-minority group, except that race, color, or membership in a language-minority group may predominate over race-neutral districting criteria to comply with Section 2 of the Voting Rights Act, provided there is a strong basis in evidence in support of such a race-based choice. A strong basis in evidence exists when there is good reason to believe that race must be used in order to satisfy the Voting Rights Act.”

101. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan that created two districts in which black voters were likely to be able to elect the candidate of their choice.

RESPONSE: Denied.

102. Admit that HB 1 better advanced the traditional districting principles of preserving the cores of preexisting districts and avoiding the pairing of incumbents than the Hatcher Plan.

RESPONSE: Admitted.

103. Admit that HB 1 better advanced the traditional districting principles of preserving the cores of preexisting districts and avoiding the pairing of incumbents than the Singleton Whole-County Plan.

RESPONSE: Admitted.

104. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 53%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 53% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

105. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 52%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 52% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

106. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 51%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 51% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

107. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 50%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 50% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

108. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 48%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 48% can violate the Equal Protection Clause if a reason for the district's demographics is a

racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

109. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 46%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 46% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

110. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 44%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 44% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

111. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 42%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 42% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

112. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 40%

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 40% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

113. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has a BVAP of no greater than 38%.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district with a BVAP of greater than 38% can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

114. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which District 7 has any particular BVAP.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

115. Admit that the Equal Protection Clause did not impose an obligation on the 2021 Legislature to enact a congressional redistricting plan in which any district has any particular BVAP.

RESPONSE: Admitted that the Equal Protection Clause does not impose a racial target, and further admitted that a district can violate the Equal Protection Clause if a reason for the district's demographics is a racial gerrymander or a continuation of a prior racial gerrymander. Otherwise denied.

116. Admit that, following the 1960 Census, Alabama was apportioned 8 congressional seats.

RESPONSE: Admitted.

117. Admit that, since the 1970 Census, Alabama has been apportioned only 7 congressional seats.

RESPONSE: Admitted.

118. Admit that Dr. Kosuke Imai's simulations submitted during the preliminary injunction proceedings in this case fail to show that race predominated in the 2021 Plan because Imai's simulations did not incorporate all of the criteria included in Alabama's redistricting guidelines, including cores of existing district, municipal boundaries, etc.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

119. Admit that Dr. Ryan Williamson's reports submitted during the preliminary injunction proceedings in this case fail to show that race predominated in the 2021 Plan because Williamson did not consider communities of interest or many other principles included in Alabama's redistricting guidelines.

RESPONSE: The *Singleton* plaintiffs lack sufficient information to admit or deny this matter.

Dated: March 31, 2023

/s/ James Uriah Blacksher

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served on counsel for Defendants (including Intervenor Defendants) via electronic mail on March 31, 2023.

/s/ Henry C. Quillen

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