

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

LAQUISHA CHANDLER, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Case No. 2:21-cv-01531-AMM
)	
WES ALLEN, in his official capacity as)	THREE-JUDGE COURT
Secretary of State of Alabama, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

**SECRETARY OF STATE WES ALLEN'S OBJECTIONS AND ANSWERS
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to FED. R. CIV. P. 26 and FED. R. CIV. P. 33, Alabama Secretary of State Wes Allen hereby timely objects and responds to Plaintiffs' First Set of Interrogatories to him. Said interrogatories were served on July 21, 2023 and Plaintiffs subsequently granted an extension.

General Statement

Secretary Allen has relied on the information presently available to him as Secretary of State. Further or different information may be discovered during the discovery phase of the litigation. Secretary Allen will amend his Objections and Responses to the extent required under FED. R. CIV. P. 26 and the applicable local Rules of this Court, applicable orders of the Court, and/or related agreements. Secretary Allen reserves the right to revise, correct, supplement, clarify, and amend

his Objections and Responses set forth herein consistent with the Federal Rules of Civil Procedure.

Secretary Allen's Responses to each 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. Secretary Allen reserves the right to make any and all such objections at the appropriate time.

Secretary Allen's answers to each and every request regarding any person's actions or intent in drafting or considering any districting map are subject to the understanding (and do not waive the arguments) that: whatever the purpose of any person involved in preparing or considering a map, "[t]he 'cat's paw' theory has no application to legislative bodies," *Brnovich v. Democratic Nat'l Comm.*, 141 S. Ct. 2321, 2350 (2021); "determining the intent of the legislature is a problematic and near-impossible challenge," *Greater Birmingham Ministries v. Sec'y of State for State of Alabama*, 992 F.3d 1299, 1324 (11th Cir. 2021); and, "the good faith of a state legislature must be presumed," *Miller v. Johnson*, 515 U.S. 900, 915 (1995).

By answering these interrogatories without objection to whether any individual interrogatory is properly counted as more than one interrogatory, Secretary Allen does not waive his right to object—in response to further interrogatories, if any—to Plaintiffs surpassing the limit on the number of

interrogatories that may be served in this proceeding. Secretary Allen specifically reserves his right to lodge such an objection.

General Objections

Secretary Allen objects to the Definitions and Instructions to the extent that they purport to impose any requirements or obligations different from those contained in the applicable Federal Rules of Civil Procedure, the applicable local Rules of this Court, applicable orders of the Court, and/or related agreements.

To the extent that any interrogatory seeks information from Secretary Allen or his staff based upon previous service as a Member of the Legislature, including but not limited to the reason or reasons for any vote or any communication had with any party concerning legislative matters, he asserts Legislative Privilege. All responses provided herein are provided by Secretary Allen in his role as Secretary of State and should be understood to reflect the knowledge of the Secretary of State's office.

Secretary Allen further objects to the Definition of "You", "Your", or "Defendant" to the extent that it can be read to suggest that any individual fills the multiple roles listed. Secretary Allen will read these terms to refer to himself in his official capacity as Secretary of State, and his Responses shall be based on the knowledge of his office.

INTERROGATORIES

Interrogatory No. 1:

Identify all consultants, experts, or other individuals whose input, feedback, or advice you sought in drawing, evaluating, or approving Alabama's 2021 state legislative maps, including whether those maps complied with the Voting Rights Act, the U.S. Constitution, and federal and state law.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps, and thus his office did not seek "input, feedback, or advice" from "consultants, experts, or other individuals . . . in drawing, evaluating, or approving Alabama's 2021 state legislative maps"

As a result of redistricting litigation, and without waiving attorney client privileges, the Secretary of State's office is aware that the Legislature hired Randy Hinaman to draw the State legislative maps and consulted with M.V. Hood III, Ph.D. Both Mr. Hinaman and Dr. Hood should be contacted through defense counsel.

Interrogatory No. 2:

Identify the criteria that the Committee and/or its agents, including Randy Hinaman, used as redistricting guidelines in creating Alabama's state legislative districts during the 2021 redistricting cycle, including the weight or priority applied to each factor.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps.

As a result of redistricting litigation, and without waiving attorney client privileges, the Secretary of State's office is aware that the Committee adopted redistricting guidelines on May 5, 2021.

Interrogatory No. 3:

Identify and describe all guidance and instructions that were provided to Randy Hinaman by you or your agents, employees, or anyone assisting you concerning the process he [Hinaman] should employ when drawing the 2021 state legislative districts, the relevant criteria to consider, and what evaluations of his districts should be conducted.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps and provided no guidance or instructions to Mr. Hinaman.

As a result of redistricting litigation, and without waiving attorney client privileges, the Secretary of State's office is aware that the Committee adopted redistricting guidelines on May 5, 2021.

Further, as a result of redistricting litigation, and without waiving attorney client privileges, the Secretary of State's office is aware that Dr. Hood conducted certain analyses of a limited number of districts during the legislative process.

Interrogatory No. 4:

Describe the 2021 redistricting cycle drafting timeline for Alabama's state legislative districts, including identifying all meetings between Drafters and the Committee and/or its agents.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps.

Information about public hearings conducted by the Committee and about legislative proceedings is as available to the Plaintiffs as to the Secretary.

With respect to the time pressure to redistrict, the Secretary of State's office is aware 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.
- In February 2021, the Census Bureau issued a press release stating that it would not release the redistricting data until September 30, 2021.
- 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).

- On March 15, 2021, the Census Bureau issued a further press release stating it could provide redistricting data in legacy format by mid-to-late August 2021.
- The Alabama Legislature received initial 2020 Census data from the Census Bureau in mid-August 2021.
- The Secretary of State's office provided written testimony from Clay Helms, who was then Deputy Chief of Staff and Director of Elections, in support of the State's position.
- On October 25, 2021, Governor Ivey issued a Proclamation, which bore the Secretary of State's attestation, calling the Alabama Legislature into a Special Session beginning on October 28, 2021. Pertinent here, the Proclamation provided: "**Redistricting.** The Legislature may consider legislation pertaining to the reapportionment of the State, based on the 2020 federal census, into districts for electing members of the Alabama House of Representative, the Alabama Senate, the United States House of Representatives, and the State Board of Education."
- According to the official records of the Alabama Secretary of State, Ala. Act No. 2021-556 was signed by the Governor and received in the Secretary's office on November 4, 2021. This Act concerned redistricting the Alabama House of Representatives.

- According to the official records of the Alabama Secretary of State, on November 4, 2021, the Secretary of State certified that “Act 2021-556 was passed by the Alabama Legislature, and signed into law by the Governor on November 4, 2021” and that the “map and legal description” were effective that day.

- According to the official records of the Alabama Secretary of State, Ala. Act No. 2021-558 was signed by the Governor and received in the Secretary’s office on November 4, 2021. This Act concerned redistricting the Alabama Senate.

- According to the official records of the Alabama Secretary of State, on November 4, 2021, the Secretary of State certified that “Act 2021-558 was passed by the Alabama Legislature, and signed into law by the Governor on November 4, 2021” and that the “map and legal description” were effective that day.

- According to the official records of the Alabama Secretary of State, Ala. Act No. 2021-555 was signed by the Governor and received in the Secretary’s office on November 4, 2021. This Act concerned redistricting Alabama’s districts for electing Members of the United States House of Representatives.

- According to the official records of the Alabama Secretary of State, on November 4, 2021, the Secretary of State certified that “Act 2021-555 was passed by the Alabama Legislature, and signed into law by the Governor on November 4, 2021” and that the “map and legal description” were effective that day.

- According to the official records of the Alabama Secretary of State, Ala. Act No. 2021-559 was signed by the Governor and received in the Secretary's office on November 4, 2021. This Act concerned redistricting the State Board of Education.

- According to the official records of the Alabama Secretary of State, on November 4, 2021, the Secretary of State certified that "Act 2021-559 was passed by the Alabama Legislature, and signed into law by the Governor on November 4, 2021" and that the "map and legal description" were effective that day.

Interrogatory No. 5:

For each map drafted in the 2021 redistricting cycle, identify when it was created, who it was shared with, and when it was first made publicly available.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

To the extent that this interrogatory calls for information concerning any redistricting plans for the United States House of Representatives and/or the State Board of Education Plan, Secretary Allen further objects to this interrogatory on grounds that it calls for irrelevant information that has no value to the case such that responding is disproportionate to the needs of the case.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps. Accordingly, the office has no knowledge regarding when any map "was created, who it was shared with, and when it was first made publicly available" assuming that, by "publicly available", the interrogatory seeks information about when any member of the public would have first seen any map during the legislative process.

Pursuant to Alabama law, the Secretary does have a duty to post the final enacted State legislative maps on his website. Ala. Code § 29-1-2.3 (Alabama Senate); Ala. Code § 29-1-1.2 (Alabama House of Representatives). The Secretary of State's office made the enacted Alabama Senate plan and Alabama House of Representatives plan available to the public on his website in November 2021.

Interrogatory No. 6:

Define the phrase "cores of existing districts," from the Reapportionment Committee Redistricting Guidelines, as that factor was interpreted and applied by you or your agents, employees, or anyone assisting you, including Randy Hinaman, in creating Alabama's state legislative districts during the 2021 redistricting cycle.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps and did not define, interpret or apply the phrase "core of existing districts" or direct others to do so.

Interrogatory No. 7:

Identify all communities of interest that the Committee and/or its agents, including Randy Hinaman, identified and credited when drafting and approving Alabama's state legislative districts during the 2021 redistricting cycle.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

Secretary Allen further objects to the term "credited" as vague.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps. The office does not know what

“communities of interest that the Committee and/or its agents, including Randy Hinaman, identified and credited” when enacting the redistricting legislation.

Interrogatory No. 8:

For each Challenged District, identify all communities of interest considered or evaluated by you or your agents, employees, or anyone assisting you, including Randy Hinaman, in creating Alabama’s state legislative districts during the 2021 redistricting cycle, including which communities of interest impacted the districts adopted.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State’s office was not involved in drafting or passing Alabama’s 2021 State legislative maps, and thus did not consider or evaluate any community of interest or direct anyone else to do so.

Interrogatory No. 9:

For each Challenged District, identify when the district “core” was first drawn or otherwise identified and whether the Committee sought or received any input on the drawing or identification of the district—including the identity of each person who provided said input, when that input was provided, the content of the input, and whether any change was made to the district core as a result of that input during the 2021 redistricting cycle.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps, and thus has no knowledge as to the drawing or identity of any district "core" or whether the "Committee sought or received any input on the drawing or identification" of any district during the 2021 redistricting cycle.

Interrogatory No. 10:

For each Challenged District, identify each change made and/or feedback incorporated to a draft map from a legislator.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps and has no knowledge about any "change made and/or feedback incorporated to a draft map from a legislator."

Interrogatory No. 11:

Identify and describe how the Committee, and its agents and employees, defined, monitored, or reviewed its compliance with the VRA and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution when creating Alabama's state legislative districts during the 2021 redistricting cycle.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps, and does not know how "the Committee, and its agents and employees, defined monitored or reviewed its compliance" with any laws during the 2021 redistricting cycle.

As a result of redistricting litigation, and without waiving attorney client privileges, the Secretary of State's office understands that after the plans were drafted, M.V. Hood, III prepared functionality analyses on some districts at the Committee's request.

Interrogatory No. 12:

Identify and describe how the Committee and its agents and employees selected districts to perform functionality examinations or effectiveness analysis, including those analyzed in document RC 44600, produced in *Milligan v. Allen*.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 state legislative maps, and does not know how the Committee and its agents and employees selected any districts.

As a result of redistricting litigation, and without waiving attorney client privileges, the Secretary of State's office understands that after the plans were

drafted, M.V. Hood, III prepared functionality analyses on some districts at the Committee's request.

Interrogatory No. 13:

Describe how and when racial data and awareness of racial composition were used in the drafting process of Alabama's state legislative districts during the 2021 redistricting cycle.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office was not involved in drafting or passing Alabama's 2021 State legislative maps, and does not know how and when racial data and awareness of racial composition was used during the 2021 redistricting cycle.

As a result of redistricting litigation, and without waiving attorney client privileges, the Secretary of State's office understands that after the plans were drafted, M.V. Hood, III prepared functionality analyses on some districts at the Committee's request.

Interrogatory No. 14:

For the 1990, 2000, and 2010 redistricting cycles, identify who drew, who directed the creation of, what criteria was relied upon, and who determined the criteria of each respective enacted map for State House of Representatives and State Senate.

OBJECTION: Secretary Allen objects to this interrogatory on grounds of Legislative Privilege to the extent that it seeks a response from him or his staff as a former Member of the Legislature.

Secretary Allen further objects to this interrogatory to the extent that it seeks attorney work product and/or attorney client communications.

Secretary Allen further objects this this interrogatory as unduly burdensome and disproportionate to the needs of the case.

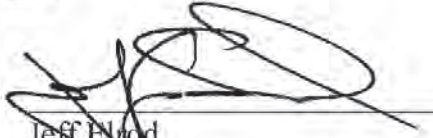
ANSWER: Answering in his official capacity as Secretary of State and without waiving this objection, Secretary Allen states:

The Secretary of State's office has no formal role in drafting or passing of Alabama Senate and/or Alabama House of Representative's maps, and accordingly there is no reason to believe the office had any role in the drafting or passing of Alabama's 1990, 2000, or 2010 State legislative maps.

* * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing Answers to Interrogatories are true and correct to the best of my knowledge, information, and belief based upon information provided to me.

Executed on: September 19, 2023



Jeff Elrod
Director of Elections
Alabama Secretary of State

Signed as to objections,

Steve Marshall
Attorney General

Edmund G. LaCour Jr. (ASB-9182-U81L)
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s/ James W. Davis
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Counsel for Secretary of State Allen

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2023, I served the foregoing on all counsel of record by electronic mail.

s/ James W. Davis
Counsel for Secretary of State Allen