

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

**ALABAMA LEGISLATIVE BLACK
CAUCUS, et al.,**

Plaintiffs,

v.

THE STATE OF ALABAMA, et al.,

Defendants.

**CIVIL ACTION NO.
2:12-cv-691-WKW-MHT-WHP
(3-judge court)**

DEMETRIUS NEWTON, et al.,

Plaintiffs,

v.

THE STATE OF ALABAMA, et al.,

Defendants.

**CIVIL ACTION NO.
2:12-cv-1081-WKW-MHT-WHP
(3-judge court)**

STATE DEFENDANTS' FILINGS OF REMEDIAL PLAN INFORMATION

COME NOW the defendants and in compliance with the Court's order of February 10, 2017, *doc. 327*, *see also doc. 326*, file the following information about the remedial plans:

1. The remedial plan for the Senate, and related exhibits:

State 1	2017 Ala. Laws 347 (formerly SB403) (remedial Senate districts)
State 2	Reapportionment Committee Senate Plan 2 (RCSP2) Large Size Statewide
State 3	RCSP2 Letter Size Statewide
State 4	RCSP2 Medium Size Statewide
State 5	RCSP2 Jefferson Co. Birmingham Area
State 6	RCSP2 Jefferson Co.

**DEFENDANT'S
EXHIBIT
10**

State 7	RCSP2 Madison Co. Huntsville Area
State 8	RCSP2 Madison Co.
State 9	RCSP2 Mobile City
State 10	RCSP2 Mobile Co.
State 11	RCSP2 Montgomery Area
State 12	RCSP2 Montgomery Co.
State 13	RCSP2 All Districts Population Report
State 14	RCSP2 Assigned District Splits - County
State 15	RCSP2 Assigned District Splits - VTD
State 16	RCSP2 District Statistics Report
State 17	RCSP2 Population Summary Report
State 18	2012 Senate All Districts Population Report
State 19	2012 Senate Assigned District Splits - County
State 20	2012 Senate Assigned District Splits - VTD
State 21	2012 Senate District Population Summary Report
State 22	2012 Senate District Statistics Reports
State 23	Chart comparing 2012 Senate districts with RCSP2 districts
State 24	Senate Incumbent Residential Addresses – April 2017
State 25	SB403 History

2. The remedial plan for the House, and related exhibits:

State 26	2017 Ala. Laws 348 (formerly, HB 571) (remedial House districts)
State 27	RCHP2 Reapportionment Committee House Plan 2 (RCHP2) Medium Size Statewide
State 28	RCHP2 Large Size Statewide
State 29	RCHP2 Jefferson Co. Birmingham Area

State 30	RCHP2 Jefferson Co.
State 31	RCHP2 Mobile Area
State 32	RCHP2 Mobile Co.
State 33	RCHP2 Montgomery Area
State 34	RCHP2 Montgomery Co.
State 35	RCHP2 Huntsville Area
State 36	RCHP2 Madison Co.
State 37	RCHP2 All District Population Report
State 38	RCHP2 Assigned District - County
State 39	RCHP2 Assigned District Splits - VTD
State 40	RCHP2 District Statistics Report
State 41	RCHP2 Population Summary Report
State 42	2012 House All Districts Population Report
State 43	2012 House Assigned District Splits - County
State 44	2012 House Assigned District Splits - VTD
State 45	2012 House District Statistics Report
State 46	2012 House Population Summary Report
State 47	Chart comparing 2012 House districts with RCHP2 districts
State 48	House Incumbent Residential Addresses – March 2017
State 49	HB571 History
State 50	Alabama HD 32: District Functionality Analysis, Dr. M. V. Hood, III

3. The Reapportionment Committee amended its Guidelines in late February, 2017, and then again in March after the Supreme Court released *Bethune-Hill v. Virginia State Board of Elections*, ___ U.S. ___, 137 S. Ct. 788 (Mar. 1, 2017). **State 51** is

the current version of the Guidelines, under which the new Senate and House plans were drawn.

4. Transcripts of the Reapportionment Committee and other committee hearings are:

State 52	Reapportionment Committee – February 21, 2017 (The tape for this meeting, if there was one, has not been located.)
State 53	Reapportionment Committee – March 1, 2017 (State 53 will be filed supplementally.)
State 54	Reapportionment Committee – April 26, 2017
State 55	Constitution, Campaigns, and Elections Committee (House) – May 2, 2017
State 56	Tourism and Marketing Committee (Senate) – May 3, 2017
State 57	Constitution, Campaigns, and Elections Committee (House) – May 9, 2017
State 58	Tourism and Marketing Committee (Senate) – May 17, 2017

5. Description of the procedure used to draw the new Senate and House plans:

a. Without looking at racial data or otherwise considering race, all existing majority-black districts were redrawn according to traditional districting criteria as defined in the Guidelines, with a particular emphasis on ending county and precinct splits.

b. Without looking at racial data or otherwise considering race, adjustments were made to the affected districts (the remedial majority-black districts and nearby districts) as needed to bring total population within acceptable deviation from ideal population.

c. Affected Legislators were given the opportunity to review their revised districts and make changes that did not violate the criteria discussed above.

6. Participants in this process included:

- Sen. Gerald Dial and Rep. Randy Davis, co-chairs of the Reapportionment Committee, and Sen. Jim McClendon, a member of the Committee;
- Ms. Donna Shanholtzer, who directs the Reapportionment Office, and employees in that office;
- Mr. Randolph Hinaman, demographer and map drawer, who met with affected Legislators and reviewed and discussed with them their revised districts;
- Members of the Legislature who met in the Reapportionment office to review their respective districts, or who discussed them with Sen. Dial, Rep. Davis, or Sen. Jim McClendon (former co-chair of the committee);
- Legislative leadership, including Sen. Del Marsh and Speaker Mac McCutcheon;
- Representatives of the plaintiffs, the ADC and ALBC, including Rep. Merika Coleman, Rep. Juandalynn Givan, Rep. Laura Hall, John Knight, Rep. Thad McClammy, Sen. Linda Coleman-Madison, Sen. Vivian Figures, Sen. Paul Sanford, Sen. Bobby Singleton, Sen. Rodger Smitherman, and their legal counsel, Mr. Jim Blacksher, Mr. Joel Caldwell, and Mr. John Tanner; and,
- Reapportionment Committee counsel Dorman Walker.

7. Criteria followed in drawing new districts:

- a. Race could not be considered when making a change to a district, unless such changes (made without consideration of race) to an existing majority-black district lowered the black voting-age population (BVAP) below 50%.
- b. Changes could be made only to majority-black districts and districts adjoining or near them as necessary to correct population deviations; and

c. Changes had to comply with the Reapportionment Committee's Guidelines.

8. When HD32 was redrawn without looking at racial data or otherwise considering race, its BVAP fell from 57.80% to below 50%. This change raised the question of whether HD32 as redrawn fulfilled the State's obligation under Section 2. Consequently, an analysis of the district's voting performance was conducted by Dr. M.V. Hood, III, a political scientist at the University of Georgia, who concluded that HD32 "would be unable to serve as a black ability to elect district if it contained less than a majority of black voting age constituents." Based on Dr. Hood's analysis, HD32 was further revised by making precinct splits in which race was taken into account, with the result that the district's BVAP increased to 50.26%.

Respectfully submitted this the 30th day of May, 2017.

s/Andrew Brasher

One of counsel for the State of Alabama, the
Governor of Alabama, and the Secretary of
State

OF COUNSEL:

Andrew Brasher (ASB-4325-W73B)
abrasher@ago.state.al.us
James W. Davis (ASB-4063-I58J)
jimdavis@ago.state.al.us
Misty S. Messick (ASB-xxxx-T71F)
mmessick@ago.state.al.us
Megan A. Kirkpatrick (ASB-2652-M66K)
mkirkpatrick@ago.state.al.us
Assistant Attorneys General
State of Alabama
Post Office Box 300152
Montgomery, AL 36130-0162
334/353-2609

John J. Park, Jr. (ASB-xxxx-P52J)
jjp@sbllaw.net
Deputy Attorney General
Strickland Brockington Lewis LLP
Midtown Proscenium, Suite 2200
1170 Peachtree Street, NE
Atlanta, GA 30309
678/347-2208

s/Dorman Walker

Counsel for defendants-intervenors Senator
Gerald Dial, Senator Jim McClendon, and
Representative Randy Davis

OF COUNSEL:

Dorman Walker (ASB-9154-R81J)
dwalker@balch.com
Deputy Attorney General
Balch & Bingham LLP
Post Office Box 78
Montgomery, AL 36101-0078
334/834-6500

s/Bryan Taylor

One of counsel for the State of Alabama and the
Governor of Alabama

OF COUNSEL:

Bryan M. Taylor (ASB-0390-Y81T)
Bryan.Taylor@governor.alabama.gov
General Counsel
Office of the Governor
600 Dexter Avenue, Room NB-05
Montgomery, Alabama 36130
334-242-7120

Algert S. Agricola, Jr. (ASB-0364-R79A)
aagricola@rdafirm.com
Ryals Donaldson & Agricola PC
60 Commerce Street, Suite 1400
Montgomery, AL 36104
334/834-5290

CERTIFICATE OF SERVICE

I certify that May 30, 2017 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and service will be perfected upon the following by email and/or US mail:

James U. Blacksher (ASB-2381-S82J)
jblacksher@ns.sympatico.ca
Post Office Box 636
Birmingham, AL 35201
205/591-7238

U.W. Clemon (ASB-0095-076U)
clemonu@bellsouth.net
U.W. Clemon, LLC
5202 Mount Ridge Parkway
Birmingham, AL 35222
Edward Still (ASB-4786-I47W)
docket@votelaw.com
Edward Still Law Firm LLC
429 Green Springs Hwy., Ste. 161-304
Birmingham, AL 35209
205/320-2882

J. Cecil Gardner (ASB-3461-G65J)
jcg@thegardnerfirm.com
The Gardner Firm PC
Post Office Box 3103
Mobile, AL 36652
251/433-8100

John K Tanner (DC Bar #318873)
john.k.tanner@gmail.com
3743 Military Road, NW
Washington, DC 20015
202/503-7696
Appearing *pro hac vice*

Richard Pildes
rick.pildes@nyu.edu
40 Washington Square S
New York, NY 20012
212/998-6377
Pro hac vice admission pending

Joe M. Reed (ASB-7499-D59J)
joe@joereedlaw.com
Joe M. Reed & Associates, LLC
524 South Union Street
Montgomery, AL 36104
334/834-2000

Robert D. Segall (ASB-7354-E68R)
segall@copelandfranco.com
Joel Thomas Caldwell (ASB-4625-Z36E)
caldwell@copelandfranco.com
Copeland, Franco, Screws & Gill, PA
444 S. Perry Street
Montgomery, AL 36104
334/834-1180

Walter S. Turner (ASB-6307-R49W)
wsthayer@juno.com
Post Office Box 6142
Montgomery, AL 36106
334/264-1616

s/Dorman Walker
Of Counsel