

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.)	

**BRIEF IN SUPPORT OF DEFENDANTS’ EMERGENCY
MOTION TO MAKE PROPOSED REMEDIAL PLANS AND
SUPPORTING MATERIALS ACCESSIBLE ON DLS WEBSITE**

On September 3, 2015, the Court issued an order setting forth the process by which parties and non-parties can submit and comment on plans. The Court ordered that on September 18, 2015, “the parties, and any non-parties desiring to do so, shall file their proposed remedial plans and maps with supporting data and briefs explaining their respective proposals.” ECF No. 207 at 1-2. The Court also ordered that on October 2, 2015, “the parties, and any non-parties desiring to do so, shall submit their briefs in response to the remedial plans, maps, and briefs submitted on September 18.” ECF No. 207 at 2.

The parties agreed on the format in which parties and non-parties should submit plans and supporting materials for the Court’s consideration. Because the Court’s filing system cannot accommodate documents that are not in .pdf format, the parties also agreed on how parties and non-parties may serve each other and the Court with copies of the supporting materials that are not in .pdf format. The parties’ agreement on these points was embodied in the first five

numbered paragraphs of the Court’s September 17, 2015 Order Regarding Submission of Proposed Remedial Plans (ECF No. 221).

That order did not, however, provide a method by which plans and supporting materials will be served (or otherwise made accessible to) interested *non-parties* who do not propose plans themselves but nonetheless “desir[e] to . . . submit . . . briefs in response to the remedial plans, maps, and briefs” (ECF No. 207 at 2). The parties disagree about whether the Court’s September 3 order permits non-parties to comment on plans submitted by others if they did not themselves submit proposed plans. Defendants believe that the Court’s order plainly allows such non-parties to comment. *See* ECF No. 207 at 2 (briefs may be filed by “*any* non-parties desiring to do so”) (emphasis added). But Intervenor-Defendants and Plaintiffs disagree. They take the position that non-parties cannot comment on their plans if those non-parties did not submit plans of their own.¹

Access to the submitted plans and supporting materials is critical to allowing non-parties to participate meaningfully in the remedial process adopted by the Court. The leadership of Virginia’s Division of Legislative Services (DLS) has indicated its willingness to facilitate that access—provided it has authority to do so—by posting on its redistricting website (<http://redistricting.dls.virginia.gov>), and making available for download, the remedial proposed plans and supporting materials that are submitted for the Court’s consideration. This mechanism should ensure that interested non-parties are able to participate in the remedial process ordered by the Court.

Because this Court’s September 3 order plainly contemplates that any non-party may comment on any proposed plan, and because a mechanism is needed to facilitate access to

¹ Counsel for Intervenor-Defendants have indicated, however, that they do not oppose the relief sought in Defendants’ motion.

