

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

ALABAMA LEGISLATIVE)	
BLACK CAUCUS, et al.,)	
)	
Plaintiffs,)	
)	
v.)	2:12-CV-00691-WKW-MHT-WHP
)	(Three Judge Court)
THE STATE OF ALABAMA, et al.,)	
)	
Defendants.)	
<hr style="width: 30%; margin-left: 0;"/>)	
)	
ALABAMA DEMOCRATIC)	
CONFERENCE, et al.,)	
)	
Plaintiffs,)	
)	
v.)	2:12-CV-01081-WKW-MHT-WHP
)	(Three Judge Court)
STATE OF ALABAMA, et al.,)	
)	
Defendants.)	

**ADC PLAINTIFFS’ RESPONSE TO DEFENDANTS’ MOTION TO AMEND THE
BRIEFING SCHEDULE**

The ADC Plaintiffs hereby respectfully file the attached Response to Defendants’ Motion to Amend. As set forth herein, the time requested by Defendants is unnecessary, and the additional discovery requested by Defendants would be unduly burdensome and goes well beyond the scope of the Court’s August 28, 2015 Order.

1. Defendants’ request in Request 1-13 demand information as to how “each member of the ADC” feels about the ADC and ALBC plans drafted pursuant to the Court’s August 28 Order, Doc. 283. First, these interrogatories intrude on the attorney-client relationship. The plans were

provided to the Court with the understanding and approval of the ADC. Defendants seek to pierce the attorney-client relationship is improper.

A. Each of these requests, moreover, is unduly burdensome. The ADC has some 3,000 members. The costs and logistics of providing each member with copies of the plans and supporting data, and making the contours of the various districts intelligible to each member would be truly extraordinary and, frankly, well beyond the resources of the ADC. The attitudes of the 3,000 ADC members, moreover, were not considered in the drafting of Defendants' plans, the plans before the Court, and have nothing to do with the case at this stage.

B. Most importantly, the Court's August 28 Order was aimed at liability, and contemplated what a plan drawn at the time the State drew its own plan could have looked like had the State actually followed its own stated redistricting criteria. The Court did not invite remedial plans, which would have been entirely premature as no finding of liability has yet been made. In drawing the plans, the ADC was not counting its chickens.

C. Finally, the ADC has answered most of these questions. At the outset, we note that the ADC has drawn these plans as presented here pursuant to the Court's Order as part of the process for resolving the substantive liability phase of this case. The ADC plans are not remedial plans and the ADC does not expect or propose that the plans will or should be adopted either by the State or by the Court. For example, as ordered by the Court the plans separate the 2010 incumbents rather than the current incumbents. Similarly, now that the Supreme Court has clarified that a plus or minus 1% population-deviation rule is not constitutionally required, the State or the Court might at the settlement or remedial phase of the case relax that standard to allow even more counties to remain intact. The plans do, however, fully satisfy the standards identified by the Court.

Doc. 287 at 5. The requirements of the August 28 Order address various of the Defendants' interrogatories. They thus have been answered. Doc. 287. To elaborate, the ADC would prefer plans that allow a five percent rather than one percent deviation for each district so that the plans could fully comply with the Alabama Constitution (Interrogatory 7) with additional counties kept intact; and the ADC would be open to other proposals and suggestions for adjustment from legislators and members of the public.

2. The ADC has provided the information requested in Interrogatories 14 and 15.

3. The information requested in Interrogatories 16 and 17 is equally available to Defendants. The ADC obtained the shape files of the locations of the incumbent legislators from the State (Interrogatory 16). The ADC has provided its plans to the State Reapportionment Office, and they will generate the information requested in Interrogatory 17. We have no reason to believe that the information will not be available prior to the depositions that Defendants have scheduled.

4. Under the circumstances, the extension requested by the State is clearly excessive. The Court's August 28 Order gave the Defendants until October 23, 2015 to respond to Plaintiffs' plans. The State has requested an extension to 18 days after the due date for their Interrogatories, October 26, 2015, in which to file its response to the plans. The State will have all of the information to which it is entitled by October 6, or 17 days before its response is due under the Court's August 28 Order (October 23, 2015). The ADC Plaintiffs would not oppose an extension to October 26, 2015, or other extension for which there is good and sound justification.

WHEREFORE, Plaintiffs pray that the Court will deny Defendants' motion.

Respectfully submitted this 30th day of September, 2015.

s/ James H. Anderson

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 30, 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:

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