

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.	)	

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

Defendants’ motion to authorize DLS to post materials on its website solves a logistical issue with how interested non-parties—entitled by this Court’s order (ECF No. 207) to submit briefs on the proposed plans—are able to access all the materials supporting the proposed plans. Currently, there is no easy mechanism by which non-parties who did not propose plans themselves can access those materials.<sup>1</sup> The Court should grant Defendants’ motion, or create an alternative avenue for interested non-parties who have not proposed plans to access this information.

Plaintiffs’ three reasons for opposing our motion are without merit. First, they assert that the only non-parties entitled to file responsive briefs are “*any non-parties who had submitted*

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<sup>1</sup> As explained in the brief supporting our motion (ECF No. 226), the Court’s September 17, 2015 Order Regarding Submission of Proposed Remedial Plans (ECF No. 221) provides a mechanism for serving supporting materials only on those who submit proposed plans themselves.

*proposed remedial plans.*”<sup>2</sup> But that’s not what the Court’s order says. It specifically allows for “any non-parties desiring to do so [to] submit their briefs in response to the remedial plans, maps, and briefs submitted on September 18, 2015.” ECF No. 207 at 2. The Court could have limited who was permitted to file briefs. But for good reason, as shown next, it did not.

Second, Plaintiffs argue that this is not the kind of case in which it is “appropriate for the public to have a significant opportunity to participate in the process of drawing the new map.” Pls.’ Opp. at 7. They say that non-party members of the public “did not sit through the trial, did not hear the evidence presented, and [are] unfamiliar with the scope and nature of the constitutional violation found by the Court.” *Id.* But the Court rejected that rationale when it allowed “any non-parties desiring to do so” to submit plans and to file briefs in response to the proposed plans. ECF No. 207 at 1-2. Plaintiffs’ rationale would have prevented Governor Terry McAuliffe, State Senator Petersen, and the Virginia State Conference of NAACP Branches, for instance, from proposing remedial plans. *See* ECF Nos. 231, 219, 227. And during the current two-week period for responding to the plans, there may well be other state legislators and “interested non-parties” who did not submit a plan themselves but who nonetheless have valuable input to offer on the merits of the proposed plans.

Third, Plaintiffs argue that authorizing DLS to post supporting materials online is “unnecessary” because “[i]nterested members of the public can already access materials filed with this Court through the Clerk’s office.” Pls.’ Opp. at 5. Their acknowledgement that submitted plans and materials are technically *already* a matter of public record makes their opposition to Defendants’ motion even more baffling. The motion simply seeks to streamline the process by which “interested non-parties desiring to” file responsive briefs can access all

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<sup>2</sup> Plaintiffs’ Memorandum in Opposition to Defendants’ Emergency Motion to Make Proposed Remedial Plans and Supporting Materials Accessible on DLS Website (“Pls.’ Opp.”) at 6.



