

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

ALABAMA LEGISLATIVE BLACK CAUCUS, et al.,)	
)	
Plaintiffs,)	
v.)	Case No. 2:12-cv-691
)	WKW-MHT-WHP
THE STATE OF ALABAMA, et al.,)	
)	
Defendants.)	
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DEMETRIUS NEWTON, et al.,)	
)	
Plaintiffs,)	Case No. 2:12-cv-1081
v.)	WKW-MHT-WHP
)	
THE STATE OF ALABAMA, et al.,)	
)	
Defendants.)	

RULE 26 REPORT OF PARTIES’ PLANNING MEETING

1. The following persons participated in a Rule 26(f) conference on February 11, 2013, by telephone conference: James U. Blacksher on behalf of the ALBC plaintiffs; John Tanner, William Patty, and Walter Turner on behalf of the Newton plaintiffs; and John Park on behalf of defendants in both cases.

2. Initial Disclosures. The parties will complete by March 8, 2013, initial disclosures required by Rule 26(a)(1).

3. Discovery Plan. The parties propose this discovery plan:

(a) Discovery will be needed on these subjects: plaintiffs' claims and defendants' defenses, including, but not limited to the following subjects:

i. The testimony of all persons who have information about the reasons why the district lines were drawn as they appear in Acts 2012-602 and 2012-603.

ii. All documents, whether in writing or in electronic form, that describe the process leading to enactment of 2012-602 and 2012-603 and the reasons for the way the district lines were drawn.

iii. The history of official racial discrimination in Alabama, particularly as it applies to the right to vote.

iv. All of the evidentiary factors for proving discriminatory intent set out in *Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977).

v. All of the evidentiary factors for proving a violation of Section 2 of the Voting Rights Act set out in *Thornburg v. Gingles*, 478 U.S. 30 (1986).

(b) Disclosure or discovery of electronically stored information should be handled as follows:

i. all discovery, including notices of deposition, will be served by email with the discovery attached as a PDF document;

ii. answers to interrogatories and answers to requests for admission will be served by email as a PDF document (with or without signature) with a copy bearing the original signature of the party or party representative served by mail;

iii. initial disclosures, responses to requests for production, and documents produced with them may be served by email in PDF format and/or by physical delivery.

(c) The parties have agreed to an order regarding claims of privilege or of protection as trial-preparation material asserted after production, as follows:

i. The parties agree that Federal Rule of Evidence 502 should apply to this case and be extended to cover all privileged documents, including, but not limited to those protected by the attorney-client privilege and the work-product doctrine. They request that the Court confirm that by order.

(d) All discovery will be commenced in time to be completed by June 28, 2013.

(e) Maximum number of 25 interrogatories, including discrete subparts, by each side to another party. Responses due 30 days after service.

(f) Maximum number of 25 requests for admission. Responses due 30 days after service.

(g) Maximum number of 30 depositions for each side.

(h) Limits on the length of depositions: 4 hours.

(i) Contingent on the Newton Plaintiffs' timely identification of needed documents including reasonably available voter registration data by race and election returns and the ALBC Newton Defendants' timely response to those requests in an electronic format, reports from experts retained by the Plaintiffs under Rule 26(a)(2) to be due May 17, 2013. Reports from experts retained by the Defendants under Rule 26(a)(2) to be due June 7, 2013 or three weeks after the reports from the Plaintiffs are received.

(j) Supplementation under Rule 26(e) due within 30 days after information becomes available.

4. Other Items:

(a) The parties request a scheduling conference before entry of the scheduling order.

(b) The parties request a pretrial conference on or about July 15, 2013.

(c) Plaintiffs should be allowed until 14 days after the Court's ruling on the ALBC Plaintiffs' Second Motion for Partial Summary Judgment (No. 68-1) to join additional parties and to amend the pleadings.

(d) Defendants should be allowed 14 days after any joinder or amendment by the plaintiffs to join additional parties and to amend pleadings.

(e) All potentially dispositive motions should be filed by May 17, 2013.

(f) Settlement cannot be realistically evaluated prior to a ruling on plaintiffs' second motion for partial summary judgment or completion of discovery.

(g) The parties have considered methods of Alternative Dispute Resolution and have decided against using them at this time.

(h) Final Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists are due four weeks before trial.

(i) Parties should have two weeks after service of final lists of trial evidence to list objections under Rule 26(a)(3).

(j) Trial has been scheduled for the week of August 12, 2013, and is expected to last five days, with the parties to give due consideration to the presentation of testimony through deposition.

Respectfully submitted this 20th day of February 2013.

[Signatures on next page]

LUTHER STRANGE
Attorney General of Alabama
By:
/s/John J. Park, Jr.
Deputy Attorney General
Alabama State Bar ID ASB-xxxx-P62J
E-mail: jjp@sblaw.net
STRICKLANDBROCKINGTON
LEWIS LLP
Midtown Proscenium Suite 2200
1170 Peachtree Street NE
Atlanta, GA 30309
Telephone: 678.347.2200
Facsimile: 678.347.2210

/s/ James W. Davis
Assistant Attorney General
Alabama State Bar ID ASB-xxxx-I58J
E-mail: jimdavis@ago.state.al.us

/s/ Misty S. Fairbanks Messick
Assistant Attorney General
Alabama State Bar ID ASB-xxxx-T71F
E-mail: mmessick@ago.state.al.us

Office of the Attorney General
State of Alabama
501 Washington Avenue
P.O. Box 300152
Montgomery, Alabama 36130-0152
Telephone: 334-242-7300
Facsimile: 334-353-8440

James H. Anderson, Esq.
William F. Patty, Esq.
Jesse K. Anderson, Esq.
Jackson, Anderson & Patty, P.C.
Post Office Box 1988
Montgomery, AL 36102
bpatty@jaandp.com
janderson@jaandp.com

Walter S. Turner, Esq.
2222 Narrow Lane Road
Montgomery, AL 36106
wsthayer@juno.com

John K. Tanner, Esq.
3734 Military Road NW
Washington, DC 20015
john.k.tanner@gmail.com

Joe M. Reed, Esq.
Joe M. Reed & Associates, LLC
524 South Union Street
Montgomery, AL 36104-4626
joe@joereedlaw.com

James U. Blacksher, Esq.
Post Office Box 636
Birmingham, AL 35201
jblacksher@ns.sympatico.ca

Edward Still, Esq.
130 Wildwood Parkway, Suite 108
PMB 304
Birmingham, AL 35209
still@votelaw.com

U.W. Clemon, Esq.
White Arnold & Dowd, P.C.
2025 Third Avenue North, Suite 500
Birmingham, AL 35203
uwclemo@waadlaw.com