

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION**

MARCUS CASTER, <i>et al.</i>,)	
)	
Plaintiffs,)	
)	
v.)	Case No.: 2:21-cv-1536-AMM
)	
JOHN H. MERRILL, <i>in his</i>)	
<i>official capacity as Alabama</i>)	
<i>Secretary of State,</i>)	
)	
Defendant.)	

**SCHEDULING ORDER FOR PRELIMINARY INJUNCTION
 PROCEEDINGS**

This case is one of four recently filed cases currently pending in the Northern District of Alabama that allege that Alabama’s electoral maps are racially gerrymandered in violation of the United States Constitution and/or the Voting Rights Act of 1965: *Singleton v. Merrill*, Case No. 2:21-cv-1291-AMM (challenges the congressional map on constitutional grounds only), *Milligan v. Merrill*, Case No. 2:21-cv-1530-AMM (challenges the congressional map on constitutional and statutory grounds), *Thomas v. Merrill*, Case No. 2:21-cv-1531-AMM (challenges the state legislative map on constitutional grounds only), and *Caster v. Merrill*, Case No. 2:21-cv-1536-AMM (challenges the congressional map on statutory grounds only).

Singleton and *Milligan* are before three-judge panels, 28 U.S.C. § 2284, that include the same three judges; *Thomas* is before a different three-judge panel, 28 U.S.C. § 2284, that includes one judge who also sits on the *Singleton* and *Milligan* panels, and two other judges; and *Caster* is before the undersigned, who also sits on all three panels.

This case is before the court following a Rule 16 conference held on November 23, 2021 that included all parties in all three cases challenging the congressional map. The court has considered the parties' positions with respect to the appropriate schedule of preliminary injunction proceedings, the serious time exigencies surrounding the fair and timely resolution of this case, including the provisions of Alabama's election law that set deadlines applicable to the next Congressional election to be conducted using the electoral map that is the subject of this action (Alabama Code Section 17-13-5(a), which effectively establishes a deadline of January 28, 2022 for candidates to qualify with major political parties to participate in the 2022 primary election for the United States House of Representatives and Senate, and Alabama Code Section 17-13-3(a), which establishes the date of that primary election as May 24, 2022), and the extraordinary and urgent time demands placed on the parties and the court in connection with these proceedings. Accordingly, the following schedule is **ORDERED** in connection with the Plaintiffs' anticipated motion for preliminary injunction:

On or before **DECEMBER 7, 2021**, the parties shall file a joint statement of facts that are stipulated for purposes of preliminary injunction proceedings.

The Plaintiffs shall file their motion for preliminary injunctive relief on or before **DECEMBER 15, 2021**.

The Secretary shall file any objections to the Plaintiffs' motion on or before **DECEMBER 22, 2021**.

The Plaintiffs shall file any reply in support of their motions for preliminary injunctive relief within five days of the filing of any objection.

The preliminary injunction discovery process will go forward so that the court may have at its disposal any competent and probative evidence that the parties can develop before the hearing. To that end:

On or before **DECEMBER 10, 2021**, the parties shall exchange any expert reports related to the motion for preliminary injunction.

On or before **DECEMBER 20, 2021**, the parties shall exchange any expert rebuttal reports related to the motion for preliminary injunction.

During the Rule 16 conference held on November 23, 2021, all parties agreed not to depose expert witnesses in advance of the preliminary injunction hearing because of the serious time exigencies described above. In the light of that agreement, it is the court's expectation that the parties' expert reports and rebuttal reports will be sufficiently detailed to afford the parties and the court an adequate

opportunity to understand the expert's expected testimony in advance of the preliminary injunction hearing.

On or before **DECEMBER 17, 2021**, the parties shall complete all discovery related to the motion for preliminary injunction, other than the filing of the expert rebuttal reports.

Any other motions related to the application for preliminary injunctive relief or hearing thereof shall be filed on or before close of business on **DECEMBER 17, 2021**. Any objection to such motions shall be filed within seven days of the filing of such motions, and any reply in support of such motions shall be filed within four days of the filing of such objection.

At or before 4:00 pm Central Standard Time on DECEMBER 23, 2021, the parties shall file a joint pretrial report that includes the following:

- A list of witnesses who have been deposed.
- A list of witnesses who will testify live at the preliminary injunction hearing.
- A list of witnesses whose deposition testimony will be presented at the preliminary injunction hearing, with deposition transcripts attached.
- A list of stipulated exhibits, numbered and with the exhibits attached.
- A list of exhibits to which a party has raised an objection, with the grounds for the objection set forth and the exhibit attached.

- Any other stipulations that the parties believe will expedite the preliminary injunction proceedings.

The court **SETS** a hearing on the Plaintiffs' motion for preliminary injunctive relief on **JANUARY 4, 2022, at 9:00 a.m. Central Standard Time** in Courtroom 8 in the Hugo L. Black United States Courthouse, 1729 5th Avenue North, Birmingham, Alabama. At that hearing, each set of plaintiffs in *Singleton*, *Milligan*, and *Caster* will be afforded the opportunity to make its own oral argument, offer its own proof to support its motion for a preliminary injunction, examine its own witnesses, and examine (and cross-examine, as appropriate) other witnesses. The Plaintiffs shall present their case to the undersigned after the *Singleton* plaintiffs and the *Milligan* plaintiffs present their cases to the panel. Following the plaintiffs' presentations, and the Defendants' presentation of their defense in *Singleton* and *Milligan* before the panel, the Defendant shall present his defense in *Caster* before this court. The plaintiffs shall be permitted to present any rebuttal evidence.

Within five days of the completion of the preliminary injunction hearing, the parties shall file proposed findings of fact and conclusions of law for the court's consideration.

DONE and **ORDERED** this 23rd day of November, 2021.



ANNA M. MANASCO
UNITED STATES DISTRICT JUDGE