FILED
2024 Feb-12 PM 06:08
U.S. DISTRICT COURT
N.D. OF ALABAMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

BOBBY SINGLETON, *et al.*, **Plaintiffs,** **v.** **WES ALLEN, in his official capacity as Alabama Secretary of State,** **Defendant.**	**Case No. 2:21-cv-01291-AMM** **THREE-JUDGE COURT**
EVAN MILLIGAN, *et al.*, **Plaintiffs,** **v.** **WES ALLEN, et al.,** **Defendants.**	**Case No. 2:21-cv-01530-AMM** **THREE-JUDGE COURT**
MARCUS CASTER, *et al.*, **Plaintiffs,** **v.** **WES ALLEN, in his official capacity as Alabama Secretary of State,** **Defendant.**	**Case No.: 2:21-cv-1536-AMM**

REPORT OF THE PARTIES' PLANNING MEETING

The parties have discussed this case in good faith and are able to agree on a schedule. In the report below, the parties set out where they agree and disagree on other discovery matters.

1. **Proposed schedules:**

Deadline or Event	Parties' Proposal
Amended Complaints	February 2, 2024
Plfs' Expert Reports	May 17, 2024
Defs' Expert Reports	June 28, 2024
Plfs' Sup'l Reports	July 26, 2024
Final supplementing Discovery per R. 26(e)	August 2, 2024
Close of Discovery (all depositions, production, etc. should be complete)	August 23, 2024
Dispositive Motions	September 13, 2024
Opposition to Dispositive Motions	October 11, 2024
Reply in support of Dispositive motions	October 25, 2024
R. 26(a)(3) witness lists, designations of deposition testimony, and exhibit lists	November 22, 2024
Motions in limine, & *Daubert* Motions (no later than)	December 6, 2024
Oppositions to In limine, & *Daubert* Motions	December 20, 2024
Replies in support of In limine & *Daubert* Motions	January 10, 2025
Pretrial Conference	Within 30 days of the trial start date

2. Amended Complaints. Plaintiffs filed their amended complaints on January 31, 2024.

3. Initial Disclosures. The parties have already served the initial disclosures required by Rule 26(a)(1).

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

(a) Discovery will be needed on these subjects:

- Whether the political processes leading to nomination or election in Alabama under the State's 2023 congressional plan are equally open to voters of all races.
- Whether African American voters have less opportunity than other members of the electorate in Alabama to participate in the political process and to elect representatives of their choice under the State's 2023 congressional plan.
- Allegations of the Plaintiffs.
- The opinions of parties' expert witnesses.

In addition, Plaintiffs believe discovery is needed on these subjects:

- Whether Alabama's enacted 2023 congressional plan results in discrimination in violation of § 2 of the Voting Rights Act.
- Whether Alabama's 2023 plan was the product of intentional racial discrimination.
- The extent to which the history of official discrimination in Alabama has touched the rights of Black people to register, to vote, or otherwise to participate in the democratic process.
- The extent to which voting in the elections of Alabama is racially polarized.
- The extent to which Alabama has used unusually large election districts, majority vote requirements, anti-single shot provisions, or other voting practices or procedures that may enhance the opportunity for discrimination against Black voters.

- If there is a congressional candidate slating process, whether Black voters have been denied access to that process.
- The extent to which Black voters in Alabama bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process.
- Whether political campaigns in Alabama have been characterized by overt or subtle racial appeals.
- The extent to which Black voters have been elected to Congress and/or other public offices in Alabama.
- Whether there is a significant lack of responsiveness on the part of elected officials in Alabama to the particularized needs of Black voters.
- Whether the policy underlying Alabama's enactment and/or use of the 2023 plan is tenuous.

In addition, *Singleton* Plaintiffs and Defendants believe discovery is needed on this subject:

- Whether race predominated over traditional districting criteria in construction of the State's 2023 Congressional plan.
- Whether race was the predominant factor motivating the placement of a significant number of voters within or without a particular district in the State's 2023 Congressional plan.

In addition, Defendants believe discovery is needed on this subject:

- Whether the districts in Plaintiffs' demonstrative plans and the court-imposed plan are reasonably constructed.
- Whether the districts in Plaintiffs' demonstrative plans and the court-imposed plan violate the Equal Protection Clause (or would if imposed by the State).
- Whether any alleged vote dilution is on account of race or color.
- Plaintiffs' standing.

- Whether, assuming Congress in 1982 could constitutionally authorize race-based redistricting under § 2 of the Voting Rights Act for some period of time, the authority to conduct race-based redistricting extends to the present day.

(b) Discovery opened in January 2023 as to *Purcell* issues and the constitutional claims brought against the 2021 map by the *Singleton* and *Milligan* Plaintiffs. The parties agree that discovery on any § 2 claims and any constitutional claims against the 2023 plan may commence upon the filing of this report. Discovery will be completed by **August 23, 2024**.

(c) Maximum number of interrogatories by each party to another party, along with the dates the answers are due: Limits for written discovery on intentional racial discrimination and racial gerrymandering claims against the 2021 plan were established in January 2023, and continue to control. For all other claims and issues, including all claims against the 2023 plan, the number of interrogatories each Party may serve and the deadline for each Party to respond shall be governed by the Federal Rules of Civil Procedure unless otherwise agreed to by the parties or ordered by the Court.

(d) Maximum number of requests for admission, along with the dates responses are Due: Limits for written discovery on intentional racial discrimination and racial gerrymandering claims against the 2021 plan were established in January 2023, and continue to control. For any other claims and issues, including all claims against the 2023 plan, the number of requests for admission each Party may serve and the deadline for each Party to respond shall be governed by the Federal Rules of Civil Procedure unless otherwise agreed to by the parties or ordered by the Court.

(e) Plaintiffs' Proposal:

Maximum number of depositions by each party: For the time period beginning upon the filing of this report and through the close of discovery, the number of depositions each Party may take shall be governed by the Federal Rules of Civil Procedure unless otherwise agreed to by the parties or ordered by the Court.

Defendants' Proposal:

Maximum number of depositions by each party: For the time period beginning upon the filing of this report and through the close of discovery, 15, excluding depositions of opposing parties' experts.

(f) Limits on the length of depositions, in hours: 7 hours.

(g) Dates for exchanging reports of expert witnesses: Plaintiffs will make expert disclosures by **May 17, 2024**. Defendants will disclose experts by **June 28, 2024**. Plaintiffs will make any supplemental disclosure of expert reports by **July 26, 2024**.

(h) Dates for supplementations under Rule 26(e): **August 2, 2024**.

5. Electronic Discovery:

Electronic discovery will continue as provided in the Court's January 10, 2023 Scheduling Order except that a party may, at its option, produce in PDF format rather than TIFF format.

6. Other Items:

(a) Requested dates for pretrial conferences: Within 30 days before trial.

(b) Final dates to file dispositive motions: **September 13, 2024**.

(c) Final dates to file motions in limine and Daubert motions: **December 6, 2024**.

(d) State the prospects for settlement: Settlement is unlikely.

(e) Identify any alternative dispute resolution procedure that may enhance settlement prospects: None.

(f) Final dates for submitting Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists: **November 22, 2024**.

(g) Final dates to file objections under Rule 26(a)(3): 14 days after filing.

(h) Other matters:

i. The parties agree that the three cases should continue to proceed together, without being formally consolidated. Evidence introduced in any case may be considered in every case subject to the objection of either a party to the case from which the evidence originates or the case in which the evidence is being introduced.

ii. In the event that a document protected by the attorney-client privilege, the attorney work product doctrine or other applicable privilege or protection is unintentionally produced by any party to this proceeding, the producing party may request that the document be returned. In the event that such a request is made, all parties to the litigation and their counsel shall promptly return all copies of the document in their possession, custody, or control to the producing party and shall not retain or make any copies of the document or any documents derived from such document. The producing party shall promptly identify the returned document on a privilege log. The unintentional disclosure of a privileged or otherwise protected document shall not constitute a waiver of the privilege or protection with respect to that document or any other documents involving the same or similar subject matter.

iii. The parties agree that they need not preserve, produce, or create a privilege log for any document that was (i) created by, and exchanged solely among, counsel and/or counsel's staff, or (ii) that was created in the prosecution or defense of this litigation and exchanged solely among counsel and/or counsel's staff on the one hand and the parties on the other.

iv. The parties continue to consent to electronic service of initial disclosures (and amendments thereto), discovery requests, discovery responses, and any other documents associated with this litigation which are not filed with the Court's CM/ECF system. An

electronic signature by counsel is sufficient for these documents. The parties agree that electronic service shall be treated as personal service so that no additional days are added for any responsive deadline. The parties will continue to be bound by any protective orders entered in this case.

Respectfully submitted this 12th day of February, 2024.

/s/ Abha Khanna
Abha Khanna*
Makeba Rutahindurwa*
Elias Law Group LLP
1700 Seventh Ave, Suite 2100
Seattle, WA 98101
Phone: (206) 656-0177
Email: AKhanna@elias.law
Email: MRutahindurwa@elias.law

Lalitha D. Madduri*
Joseph N. Posimato*
Jyoti Jasrasaria*
Elias Law Group LLP
250 Massachusetts Ave, Suite 400
Washington, D.C. 20001
Telephone: (202) 968-4490
Email: LMadduri@elias.law
Email: JPosimato@elias.law
Email: JJasrasaria@elias.law

Richard P. Rouco
(AL Bar. No. 6182-R76R)
Quinn, Connor, Weaver, Davies & Rouco LLP
Two North Twentieth
2-20th Street North, Suite 930
Birmingham, AL 35203
Phone: (205) 870-9989
Fax: (205) 803-4143

/s/ James W. Davis
Edmund G. LaCour Jr.
James W. Davis
Brenton M. Smith
Benjamin M. Seiss
Alexander Barrett Bowdre
Misty Shawn Fairbanks Messick
State of Alabama
Office of the Attorney General
501 Washington Avenue
Montgomery, Alabama 36130
(334) 242-7300
(334) 353-8400 (fax)
Edmund.LaCour@AlabamaAG.gov
Jim.Davis@AlabamaAG.gov
Reid.Harris@AlabamaAG.gov
Brenton.Smith@AlabamaAG.gov
Ben.Seiss@AlabamaAG.gov
Barrett.Bowdre@alabamaAG.gov
Misty.Messick@AlabamaAG.gov
thomas.wilson@alabamaAG.gov

Counsel for Secretary of State Merrill

/s/ Dorman Walker
Dorman Walker (ASB-9154-R81J)
BALCH & BINGHAM LLP
Post Office Box 78

rrouco@qcwdr.com

Attorneys for Caster Plaintiffs
**Admitted Pro Hac Vice*

Montgomery, AL 36101
(334) 269-3138
dwalker@ balch.com

/s/ Michael P. Taunton
Michael P. Taunton (ASB-6833-H00S)
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203
(205) 226-3451
mtaunton@balch.com

Counsel for Intervenor-Defendants Rep. Chris Pringle and Sen. Steve Livingston

/s/ Deuel Ross
Deuel Ross*
NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC.
700 14th Street N.W. Ste. 600
Washington, DC 20005
(202) 682-1300
dross@naacpldf.org

Stuart Naifeh*
Ashley Burrell*
Kathryn Sadasivan (ASB-517-E48T)
Brittany Carter*
NAACP LEGAL DEFENSE & EDUCATIONAL FUND, INC.
40 Rector Street, 5th Floor
New York, NY 10006
(212) 965-2200
snaifeh@naacpldf.org
aburrell@naacpldf.org
ksadasivan@naacpldf.org
bcarter@naacpldf.org

/s/ Sidney M. Jackson
Sidney M. Jackson (ASB-1462-K40W)
Nicki Lawsen (ASB-2602-C00K)
WIGGINS CHILDS PANTAZIS FISHER & GOLDFARB, LLC
301 19th Street North
Birmingham, AL 35203
Phone: (205) 341-0498
sjackson@wigginschilds.com

/s/ Davin M. Rosborough
Davin M. Rosborough*
Julie Ebenstein*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad St.
New York, NY 10004
(212) 549-2500
drosborough@aclu.org

/s/ Alison Mollman
AMERICAN CIVIL LIBERTIES UNION OF ALABAMA

Shelita M. Stewart*
Jessica L. Ellsworth*
HOGAN LOVELLS US LLP
555 Thirteenth Street, NW
Washington, D.C. 20004
(202) 637-5600
shelita.stewart@hoganlovells.com

David Dunn*
HOGAN LOVELLS US LLP
390 Madison Avenue
New York, NY 10017
(212) 918-3000
david.dunn@hoganlovells.com

Blayne R. Thompson*
HOGAN LOVELLS US LLP
609 Main St., Suite 4200
Houston, TX 77002
(713) 632-1400
blayne.thompson@hoganlovells.com

Counsel for Milligan Plaintiffs
**Admitted Pro Hac Vice*

Janette Louard*
Anthony Ashton*
Anna Kathryn Barnes*
NATIONAL ASSOCIATION FOR
THE ADVANCEMENT OF
COLORED PEOPLE (NAACP)
4805 Mount Hope Drive
Baltimore, MD 21215
(410) 580-5777
jlouard@naacpnet.org
aashton@naacpnet.org
abarnes@naacpnet.org

Counsel for Plaintiff Alabama State Conference of the NAACP

P.O. Box 6179
Montgomery, AL 36106-0179
(334) 265-2754
amollman@aclualabama.org

Michael Turrill*
Harmony A. Gbe*
HOGAN LOVELLS US LLP
1999 Avenue of the Stars
Suite 1400
Los Angeles, CA 90067
(310) 785-4600
michael.turrill@hoganlovells.com
harmony.gbe@hoganlovells.com

**Admitted Pro Hac Vice*

s/ Henry C. Quillen
Henry C. Quillen
(admitted pro hac vice)
WHATLEY KALLAS, LLP
159 Middle Street, Suite 2C
Portsmouth, NH 03801
Tel: (603) 294-1591
Fax: (800) 922-4851
Email: hquillen@whatleykallas.com

Joe R. Whatley, Jr.
W. Tucker Brown
WHATLEY KALLAS, LLP
2001 Park Place North
1000 Park Place Tower
Birmingham, AL 35203
Tel: (205) 488-1200
Fax: (800) 922-4851
Email: jwhatley@whatleykallas.com
tbrown@whatleykallas.com

/s/ James Uriah Blacksher
James Uriah Blacksher
825 Linwood Road
Birmingham, AL 35222
Tel: (205) 612-3752
Fax: (866) 845-4395
Email: jublacksher@gmail.com

Myron Cordell Penn
PENN & SEABORN, LLC
1971 Berry Chase Place
Montgomery, AL 36117
Tel: (334) 219-9771
Email: myronpenn28@hotmail.com

Diandra “Fu” Debrosse Zimmermann

Eli Hare
DiCello Levitt LLP
505 20th Street North, 15th Floor
Birmingham, AL 35203
Email: fu@dicellolevitt.com
ehare@dicellolevitt.com

U.W. Clemon
U.W. Clemon, LLC
Renasant Bank Building
2001 Park Place North, Tenth Floor
Birmingham, AL 35203
Tel.: (205) 506-4524
Fax: (205) 538-5500
Email: uwclemon1@gmail.com

Edward Still
2501 Cobblestone Way
Birmingham, AL 35226
Tel: (205) 335-9652
Fax: (205) 320-2882
Email: edwardstill@gmail.com

Counsel for Singleton Plaintiffs