UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

BOBBY SINGLETON, *et al.*, **Plaintiffs,** **v.** **JOHN H. MERRILL, *in his official capacity as Alabama Secretary of State, et al.*,** **Defendants.**	)	**Case No.: 2:21-cv-1291-AMM** **THREE-JUDGE COURT**

EVAN MILLIGAN, *et al.*, **Plaintiffs,** **v.** **JOHN H. MERRILL, *in his official capacity as Secretary of State of Alabama, et al.*,** **Defendants.**	)	**Case No.: 2:21-cv-01530-AMM** **THREE-JUDGE COURT**

DEFENDANTS MCCLENDON AND PRINGLE'S
SECOND AMENDED[1] MOTION FOR A PROTECTIVE ORDER

[1] This amended filing complies with the Court's Order of December 8, 2021 (ECF No. 40) and correct typographical and non-substantive errors in the original filing.

Come now Defendants Sen. Jim McClendon and Rep. Chris Pringle, Chairs of the Alabama Permanent Legislative Committee on Reapportionment ("the Committee"), pursuant to F.R.Civ.P. 26(c)(1)(A)-(B) and move the Court for a protective order forbidding their depositions and production of documents in violation of their legislative immunity and privilege. As grounds for this motion they show the following:

The Milligan Complaint alleges three counts for: (1) vote dilution in violation of § 2 of the Voting Rights Act ("VRA"), *ECM No. 1*, ¶¶190-196, (2) racial gerrymandering in violation of the Fourteenth Amendment's Equal Protection Clause, *id.,* §§197-201, and (3) intentional race discrimination, also in violation of the Equal Protection and, apparently, § 2.[2] *Id.*, ¶¶202-210. Counts 2 and 3 require Plaintiffs to show discriminatory intent or motive. Plaintiffs can prove their VRA claim by establishing either intent or discriminatory results. *See Thornburg v. Gingles*, 478 U.S. 30, 35 (1986).

Plaintiffs have noticed the depositions of Sen. McClendon and Rep. Pringle ("collectively, "the Committee Chairs"), **Exhibits A and B**[3], respectively, and have served them with requests for production, **Exhibit C**.

Legislative immunity and its corollary, legislative privilege, protect state legislators from discovery into the legislative process. *Lee v. Virginia Board of Elections*, 2015 WL 9461505, *2 (E.D. Va.) ("[T]he doctrine of legislative privilege – which extends equally to

[2] Count Three's heading cites § 2, but the text of the count makes no mention of it and intent is not needed to show a violation of the VRA.

[3] Plaintiffs noticed Rep. Pringle's deposition for December 6, and Sen. McClendon's for December 7. There is no expectation that the Committee Chairs would be deposed on these dates. The parties agreed that these dates would be for the purpose of providing deposition notices to facilitate this motion for a protective order.

testimony and other evidence – exists to safeguard legislative immunity."); *Code Revision Commission for General Assembly of Georgia v. Public.Resource.Org., Inc.*, 906 F.3d 1229, 1245 (1th Cir. 2018) (legislative privilege applies to legislators "'engaged within a legitimate sphere of legislative activity'") (citation omitted).

As the Eleventh Circuit has remarked, "[t]he legislative privilege is important. It has deep roots in common law." *In re Hubbard*, 803 F.3d 1298, 1307 (11th Cir, 2015); *Tenney v. Brandhove*, 341 U.S. 367, 372 (1951) ("The privilege of legislators to be free from arrest or civil process for what they do or say in legislative proceedings has taproots in the Parliamentary struggles of the Sixteenth and Seventeenth Centuries."). The central purpose of the immunity is "to protect the integrity of the legislative process," by "insuring the independence of individual legislators." *United States v. Brewster*, 408 U.S. 501, 507 (1972).

The privilege is broad. It "protects the legislative process itself, and therefore covers … legislator's actions in the proposal, formulation, and passage of legislation." *Hubbard*, 803 F.3d at 1308; *Brewster*, 408 U.S. at 512 (the federal constitution's Speech and Debate Clause[4], which embodies the legislative privilege, prohibits inquiry into "things generally said or done in the House or Senate in the performance of official

[4] Although the Speech and Debate Clause is the source of legislative immunity for members of Congress, and legislative immunity for state legislators comes from common law, the Supreme Court has recognized that these immunities are "similar in origin and rationale," so much so that the Supreme Court "generally [has] equated the legislative immunity to which state legislators are entitled under § 1983 to that accorded Congressmen under the Constitution." *Supreme Court of Virginia*, 446 U.S. at 732-733. This equivalence recognizes that the Speech and Debate Clause itself is rooted in common law. *Brewste*r, 408 U.S. at 507 ("The genesis of the Clause at common law is well known.").

duties"); *Dyas v. City of Fairhope*, 2009 WL 3151879, *6 (S.D. Ala. 2009) (the privilege covers all "legitimate legislative activities," including "such things as preparing committee reports and participating in committee investigations, hearings and proceedings"). Consequently, it "ought not be construed strictly, but liberally" to fulfill its purpose. *Tenney*, 341 U.S. at 374 (quoting Massachusetts Chief Justice Parsons on that state's constitutional grant of legislative privilege[5]); *United States v. Swindall*, 971 F.2d 1531, 1544 (11th Cir. 1992) ("The [Speech and Debate Clause] is read broadly to effectuate its purposes.").

The privilege applies regardless of a legislator's motive. *Tenney,* 341 U.S. at 377 ("The claim of an unworthy purpose does not destroy the privilege. … The holding of this Court in *Fletcher v. Peck*, 10 U.S. (6 Cranch) 87 (1870), that it was not consonant with our scheme of government for a court to inquire into the motives of legislators, has remained unquestioned."); *Hubbard*, 803 F.3d at 1309 ("The legislative privilege 'protects against inquiry into the acts that occur in the regular course of the legislative process and *into the motivation for those acts*.'") (quoting *Brewster*, 408 U.S. at 525, emphasis added in *Hubbard*). Legislators acting in a legislative capacity are "immune from liability for their actions within the legislative sphere," "even though their conduct,

[5] Alabama likewise enshrines the privilege in its constitution, as do most other states. *Tenney*, 341 U.S. 375; *Ala. Const. Art IV, §56* ("Members of the legislature shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house shall not be questioned in any other place.").

if performed in other than legislative contexts, would itself be unconstitutional." *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 510 (1975).

The Committee Chairs are protected by legislative privilege from being deposed by Plaintiffs about anything relating to the passage of House Bill 1 ("HB 1"), Alabama's new congressional districts. There is no question that their work as Chairs of the Reapportionment Committee and their actions on the floors of their respective chambers – including what they read or wrote, and to whom and about what, relating to Alabama's new congressional districts – are "actions in the proposal, formulation, and passage of legislation," and as such are "things generally said or done in the House or Senate in the performance of official duties," and are absolutely privileged from discovery in this civil lawsuit. "Absolute legislative immunity attaches to all actions taken in the sphere of legitimate legislative activity." *Bogan v. Scott-Harris*, 523 U.S. 44, 52 (1998). Thus the Court should order that this discovery not be had.

So also the Plaintiffs' request for production. Among the documents requested are ones likely to express the motives, impressions, and opinions of the Committee Chairs[6],

[6] It bears pointing out that discovering the Committee Chairs' motivations concerning HB 1 is not probative of Legislative intent behind HB 1. "The purported evidence therein [the affidavit] proffered by individual members of the Legislature of Alabama is inadmissible to prove legislative intent for the reason that it is well settled that the intent of the legislature is that expressed in the statute and the motives of individual members of the legislature or the intentions of the draftsman, or any other person, will not be looked into by the court if their motives or intentions are not expressed in the statute, and the court will not be influenced by their views or opinions." *Kirby v. Tennessee Valley Authority*, 877 F. Supp. 589, 591 (N.D. Ala. 1994); *see also Edwards v. Aguillard*, 482 U.S. 578, 636-37 (1987) (Scalia, J., dissenting) ("[D]iscerning the subjective motivation of those enacting the statute is, to be honest, almost always an impossible task. The number of possible motivations, to begin with, is not binary, or indeed even finite. In the present case, for example, a particular legislator need not have voted for the Act either

or who participated in key decisions, or how and why actions were taken or decisions made. *E.g.,* Request No. 1 (seeking "all communications among representatives of the State or between such representatives and other governmental officials concerning" congressional-plan submission pursuant to Section 5 of the Voting Rights Act); Request No. 2 (seeking "All documents and communications … concerning the drawing of the congressional districts adopted in HB 1, including but not limited to all communications with and documents provided to, considered, or relied on by persons who drew, reviewed, approved, or adopted the determination to draw districts as reflected in HB 1"); Request No. 3 (seeking any documents, including "analyses, correspondence, or other documents" "concerning the drawing of congressional districts in 2021 including those adopted in HB 1", "the role of race in drawing districts, and correspondence between or among You [sic], individuals in the Legislative Reapportionment Office, any map drawers, experts, legislators, members of Congress, or anyone else concerning the drawing of the challenged congressional districts or any draft maps of the challenged

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because he wanted to foster religion or because he wanted to improve education. He may have thought the bill would provide jobs for his district, or may have wanted to make amends with a faction of his party he had alienated on another vote, or he may have been a close friend of the bill's sponsor, or he may have been repaying a favor he owed the majority leader, or he may have hoped the Governor would appreciate his vote and make a fundraising appearance for him, or he may have been pressured to vote for a bill he disliked by a wealthy contributor or by a flood of constituent mail, or he may have been seeking favorable publicity, or he may have been reluctant to hurt the feelings of a loyal staff member who worked on the bill, or he may have been settling an old score with a legislator who opposed the bill, or he may have been mad at his wife who opposed the bill, or he may have been intoxicated and utterly unmotivated when the vote was called, or he may have accidentally voted "yes" instead of "no," or, of course, he may have had (and very likely did have) a combination of some of the above and many other motivations. To look for the sole purpose of even a single legislator is probably to look for something that does not exist.").

congressional districts considered but not adopted"); Request No. 4 (seeking "any and all criteria used in drawing" the new congressional districts); Request No. 5 (seeking all documents "concerning any analysis or evaluation," including "all documents and communications concerning whether to conduct or use any racial polarization analyses or any other analyses concerning voting patterns"; Request No. 6 (seeking "all … notes about any meeting of a legislative committee" "in connection with" HB 1); Request No. 7 (seeking all documents "provided or relied upon" by anyone who provided advice or consultation' concerning "the drawing, evaluation, or analysis of" the new congressional districts).

These requests are directed towards legislative acts. They seek discovery of material integral to the legislative process of which HB 1 was a part.[7] Such information is protected from discovery by the legislative privilege. *Gravel v. U.S.*, 408 U.S. 606, 625 (1972) (the privilege protects matters that are "as integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House"); *see also Swindall*, 971 F.2d at 1543-45 (following Gravel and reversing conviction of a member of Congress because evidence of his committee work was barred by legislative privilege).

[7] Plaintiffs are not without other sources of information with which to pursue their case. Many of the records they seek are public, they clearly have allies in the Legislature who produced their preferred plan, and Defendants will provide expert reports in accordance with the Court's scheduling order.

In *Swindall*, the Eleventh Circuit explained, "Supreme Court precedent directs us to ask: does inquiry into a legislator's committee membership [*i.e.*, his work as a legislator] directly impinge on or threaten the legislative process? Does it make legislators accountable before a possible hostile judiciary? And does it indirectly impair legislative deliberations?" 971 F.2d 1545 (internal cites omitted). "The answer to each of these questions is yes," the Court held. *Id.* And so it is in this case.

Moreover, even if some of Plaintiffs' requests may not so directly confront the legislative privilege, they are not saved by being indirect. All inquiries into the legislative process, direct and indirect, are barred by the privilege. *Dyas. V. City of Fairhope*, 2009 WL 3153879, *9 (S.D. Ala. 2009) ("For example, a litigant cannot ask a legislator questions directly or indirectly probing corporate or individual intent (including, without limitation, questions concerning information considered or made known to the deponent or other legislators; questions concerning the *Arlington Heights* considerations or others like them; and questions concerning comments made by or to any legislator of group of legislators, before or after reenactment).").

Plaintiffs can be expected to argue that the importance of their redistricting claims warrants curtailing the legislative privilege to permit their discovery. *See, e.g. Bethune-Hill v. Virginia State Bd. of Elections*, 114 F. Supp. 3d 323, 377 (E.D. Va. 2015) (collecting cases "finding that the privilege is a qualified one in redistricting cases"). This reasoning has never been accepted by the Supreme Court, and it is incompatible with that Court's long-held position that "[a]bsolute legislative immunity attaches to all actions taken in the sphere of legitimate legislative activity." *Bogan v. Scott-Harris*, 523 U.S. 44, 52

(1998). Also, Plaintiffs' Equal Protection Clause claims are brought via 42 U.S.C. § 1983. The Supreme Court has clearly held that legislators have immunity from § 1983 claims for declaratory and injunctive relief, like Plaintiffs': "In *Tenney* we concluded that Congress did not intend § 1983 to abrogate the common-law immunity of state legislators. Although *Tenney* involved an action for damages under § 1983, its holding is equally applicable to § 1983 actions seeking declaratory and injunctive relief." *Supreme Court of Virginia v. Consumers Union of the United States*, 446 U.S. 719, 732 (1980).

If, as shown, *Tenney* bars the argument that legislative privilege must yield to plaintiffs' discovery in redistricting cases, what about claims brought under § 2? *Tenney's* reasoning provides the answer. The *Tenney* Court exhaustively reviewed the slow but progressive evolution of legislative privilege from its earliest, 341 U.S. at 372 (wryly noting that "In 1523, Sir Thomas Moore could make only a tentative claim.") to its inclusion in the U.S constitution "at a time when even Jefferson expressed fear of legislative excess," *id.* at 375 (footnote omitted), and in the constitutions of 41 of the then-48 states' constitutions. *Id.* at 788. Given this history of support for legislative privilege, the Court concluded, when Congress enacted § 1983, it could not have intended the statute to abrogate the privilege without saying so (which it didn't): "We cannot believe that Congress – itself a staunch advocate of legislative freedom - would impinge on a tradition so well grounded in history and reason by covert inclusion in the general language before us." The same reasoning applies to claims brought under the Voting Rights Act. They are important, but no more important than § 1983 claims, and Congress's decision not to include a waiver of legislative privilege in the VRA must mean

that Congress did not intend legislators – who were foreseeable defendants in redistricting actions – to lose the privilege when faced with these claims.

The undersigned certifies that he has in good faith conferred with opposing counsel in an effort to resolve this dispute without action by the Court.

CONCLUSION

For the reasons shown above, the Court should grant this motion and order that Sen. McClendon and Rep. Pringle not be deposed and that the written discovery not be had.

Respectfully submitted this 8th day of December 2021.

/s/ Dorman Walker
Counsel for Sen. McClendon and Rep. Pringle

CERTIFICATE OF SERVICE

I hereby certify that this the 8th day of December 2021 I electronically filed the foregoing with the clerk of the Court using the CM/ECF system, which will perfect service upon the following counsel of record:

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

EVAN MILLIGAN, et al.,

Plaintiffs,

v.

JOHN H. MERRILL, et al.,

Defendants.

Civil Case No. 2:21-CV-01530-AMM

PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANTS JOHN H. MERRILL, JIM MCCLENDON, AND CHRIS PRINGLE

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Plaintiffs hereby request that above-named Defendants produce the documents described herein for inspection and copying and deliver copies by electronic mail or other electronic means the requested documents to counsel for the Plaintiffs within 14 days after service.

DEFINITIONS

As used herein, the following terms have the following meanings:

1. "You," "Your," or "Defendant" refers to Defendant John H. Merrill, in his official capacity as Secretary of State of Alabama, and Jim McClendon and Chris Pringle, in their official capacities as Co-Chairs of the Alabama Permanent Legislative Committee on Reapportionment.

2. "Committee" refers to the Alabama Permanent Legislative Committee on Reapportionment.

3. The terms "concerning" or "related to" shall be construed in the broadest sense to mean referring to, describing, reflecting, alluding to, responding to, connected with, commenting on, in respect of, about, regarding, discussing, showing, analyzing, constituting, and/or evidencing, in any manner, whether directly or indirectly, the subject matter of the Request.

4. "Describe" means to provide all knowledge or information about the subject.

5. "Document" is defined to be synonymous in meaning and the same in scope as the term 'document' as used in Rule 34 of the Federal Rules of Civil Procedure and the phrase "writings and recordings" as defined by Rule 1001 of the Federal Rules of Evidence, and includes without limitation any kind of written, typewritten, printed, graphic, or recorded material whatsoever, including without limitation notes, text messages, electronic mail, memoranda, letters, reports, studies, electronic mail messages, telegrams, publications, contracts, manuals, business plans, proposals, licenses, drawings, designs, data sheets, diaries, logs, specifications, brochures, product or service descriptions, periodicals, schematics, blueprints, recordings, summaries, pamphlets, books, prospectuses, interoffice and intra office communications, offers, notations of any sort of conversations, working papers, applications, permits, surveys, indices, telephone calls, meeting minutes, databases, electronic files, software, transcriptions of recordings, computer tapes, diskettes, or other magnetic media, bank checks, vouchers, charge slips, invoices, expense account reports, hotel charges, receipts, freight bills, agreements, corporate resolutions, minutes, books, binders, accounts, photographs, and business records. This shall include all non-identical copies, no matter how prepared; all drafts prepared in connection with such documents, whether used or not; and any deleted or erased documents that may be retrieved from hard drives, floppy disks, electronic back-up files, or any other back-up systems, regardless of location, together with all attachments thereto or enclosures therewith, in the your possession, custody or control or any of your attorneys, employees, agents, or representatives.

6. "Voting Rights Act," or "VRA" refers to the Voting Rights Act, 52 U.S.C. § 10301 et seq.

7. "Section 5" or "preclearance" refers to that part of the Voting Rights Act, 52 U.S.C. § 10304 and the related federal regulations, which formerly required the State of Alabama to submit all of its voting related changes to the United States Department of Justice or to a three-judge federal district court in Washington, D.C. for review before those changes could take effect.

8. "Racially polarized" means that term as it is defined in *Thornburg v. Gingles*, 478 U.S. 30, 53, n.21 (1986).

9. "Electronically stored information" means electronically stored data on magnetic or optical storage media (including but not limited to hard drives, backup tapes, Jaz and zip drives, floppy disks, CD-ROMs and DVD-ROMs) as an "active" file or files (readily readable by one or more computer applications or forensics software), any electronic files saved as a backup, any "deleted" but recoverable electronic files on said media; any electronic file fragments (files that have been deleted and partially overwritten with new data), and slack (data fragments stored randomly from random access memory [RAM] on a hard drive during the normal operation of a computer [file slack and/or RAM slack] or residual data

left on the hard drive after new data has overwritten some but not all of previously stored data), text messages and emails located on any mainframe, server, desktop, or portable device, including cell phones.

INSTRUCTIONS

1. The responsive documents should be produced in the manner prescribed by the Federal Rules of Civil Procedure.

2. If any part of the request is objected to, the reason for the objection should be stated with particularity. If an objection is made to part of any item or category set forth in a request, that part should be specified.

3. Each request for production and subparagraphs or subdivisions thereof shall be construed independently, and no request shall be construed as creating a limitation upon any other request.

4. The documents produced in response to these requests are all responsive documents in your possession, custody, or control, or known to be available to you, regardless of whether such documents are possessed directly by you or your agents, advisors, employees, representatives, attorneys, consultants, successors-in-interest, or other persons or entities acting on your behalf or subject to your control, and whether they are maintained at any of your locations, offices, archives, or in any other location (including back-up tapes or electronic mail) or with any persons related in any way to you.

5. Any reference in these document requests to an individual includes any and all agents, advisors, employees, representatives, attorneys, successors-in-interest, and all other persons or entities acting on his, her, or its behalf or under his, her, or its control.

6. Any reference in these document requests to any corporation, partnership, association, governmental entity or agency, or other entity includes the present and former officers, executives, partners, directors, trustees, employees, agents, representatives, attorneys, accountants and all other persons acting or purporting to act on behalf of such corporation, partnership, association, agency, or entity and any of their parent corporations, holding companies, subsidiaries, affiliates, divisions, departments, predecessors, and/or successors-in-interest.

7. Where a request calls for information that is not available to you in the form requested, but is available in another form or can be obtained, in whole or in part, from other data in your possession or control, you must so state and either supply the information requested in the form in which it is available, or supply the data from which the information requested can be obtained.

8. In addition to the responsive document, you shall produce all non-identical copies, including all drafts, of each responsive document

9. If any requested document is not or cannot be produced in full, you shall produce it to the extent possible, indicating what document or portion of such document is not or cannot be produced and the reason why it is not or cannot be produced.

10. Each document produced must include all attachments and enclosures.

11. Documents attached to each other shall not be separated.

12. Documents not otherwise responsive to a request for production shall be produced if such documents refer to, concern, or explain the documents called for by any request for production and constitute routing slips, transmittal memoranda or letters, comments, evaluations, or similar documents.

13. In accordance with Rule 34(b) of the Federal Rules of Civil Procedure, all documents shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the requests and identify the name of the person from whose files the documents were produced.

14. Each request shall be responded to separately. Nevertheless, a document that is responsive to more than one request may be produced for one request and incorporated by reference in another response, provided that the relevant, corresponding portion is so labeled or marked.

15. If any requested document or other document potentially relevant to this action is subject to destruction under any document retention or destruction program, the document(s) should be exempted from any scheduled destruction and should not be destroyed until the conclusion of this lawsuit or unless otherwise permitted by the Court.

16. No part of a document request shall be left unanswered because an objection is interposed to another part of the document request. If you object to any document request or sub-part thereof, state with specificity your objection and all grounds therefore. Any ground not stated will be waived.

17. If you contend that it would be unduly burdensome to obtain and provide all of the documents called for in response to any request, then in response to each such request you shall:

    a. produce all documents and information available to you without undertaking what you contend to be an unreasonable burden; and

    b. set forth the particular grounds on which you contend that additional efforts to obtain such documents and information would be unduly burdensome.

18. If any document is withheld under any claim of privilege, including without limitation, the work-product doctrine, attorney-client privilege, or investigative or law enforcement privilege, your answer should provide the following with respect to such information:

    a. the type of document;

    b. the date of the document;

    c. the names of its author(s) or preparer(s) and an identification by employment and title of each such person;

    d. the name of each person who was sent or furnished with, received, viewed, or has had custody of the document or a copy thereof together with an identification of each such person;

    e. its title and reference, if any;

    f. a description of the document sufficient to identify it without revealing the information for which privilege is claimed;

    g. the type of privilege asserted;

    h. a description of the subject matter of the document in sufficient detail to allow the Court to adjudicate the validity of the claim for privilege; and

    i. the paragraph of this request to which the document relates.

19. Any requests propounded in the disjunctive shall be read as if propounded in the conjunctive and vice versa. Any request propounded in the singular shall be read as if propounded in the plural and vice versa. Any request propounded in the present tense shall also be read as if propounded in the past tense and vice versa.

20. These document requests cover the period from **January 1, 2021 to the present**, unless otherwise indicated in the request itself. The document requests set forth below encompass all documents and information concerning this period, even though dated, prepared, generated, or received prior to this period.

21. These document requests are continuing in nature. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, You are under a continuing duty to supplement the production with documents obtained subsequent to the preparation and service of a response to each Request. Supplemental responses shall be served and additional documents shall be made available promptly upon discovery of such information.

DOCUMENTS REQUESTED

REQUEST FOR PRODUCTION NO. 1: Any and all correspondence, maps, memoranda, expert reports, racial polarization analyses, or other documents, including electronically stored information, related to the State of Alabama's submission of congressional maps in the 1990, 2000, and 2010 redistricting cycles for preclearance review pursuant to Section 5 of the Voting Rights Act. 52 U.S.C. §10304. This request includes, but is not limited to, any correspondence with the U.S. Department of Justice for the 1990, 2000, and 2010 redistricting cycles, all communications involving the Reapportionment Committee and its chairs including internal correspondence and correspondence with members of Congress for the 2010 cycle, and all communications among representatives of the State or between such representatives and other governmental officials concerning any such submissions.

REQUEST FOR PRODUCTION NO. 2: All documents and communications, including electronically stored information, concerning the drawing of the congressional districts adopted in HB 1, including but not limited to all communications with and documents provided to, considered, or relied upon by persons who drew, reviewed, approved, or adopted the determination to draw districts as reflected in HB 1.

REQUEST FOR PRODUCTION NO. 3: Any maps, draft maps, memoranda, reports, analyses, correspondence, or other documents, including electronically stored information, concerning the drawing of the congressional districts in 2021 including those adopted in HB 1. This Request includes, but is not limited to, documents concerning the decision to maintain congressional district 7 as a majority-Black district, the decision to maintain the general shapes of the 2011 districts, racial polarization in the Alabama electorate, including congressional districts or state legislative districts, the role of race in drawing districts, and correspondence between or among You, individuals in the Legislative Reapportionment Office, any map drawers, experts, legislators, members of Congress, or anyone else concerning the drawing of the challenged congressional districts or any draft maps of the challenged congressional districts considered but not adopted.

REQUEST FOR PRODUCTION NO. 4: Documents, including electronically stored information, sufficient to show any and all criteria used in drawing and approving the contours, limits, or boundaries included in the congressional districts adopted in HB 1.

REQUEST FOR PRODUCTION NO. 5: All documents, including electronically stored information, concerning any analysis or evaluation, including but not limited to racial polarization analysis or other analysis concerning voting patterns, that were conducted, reviewed, or relied upon in drawing, reviewing, adopting, or approving the congressional districts adopted in HB 1, including but not limited to communications with the person(s) who conducted any such analysis. This request includes, but is not limited to all documents and communications concerning whether to conduct or use any racial polarization analyses or any other analyses concerning voting patterns, regardless whether such analyses were actually used or conducted, including but not limited to the materials relied upon to determine which districts received any racial polarization study, in connection with drawing the congressional districts adopted in HB 1.

REQUEST FOR PRODUCTION NO. 6: All transcripts, minutes, or other notes, including electronically stored information, recording or referencing the conduct of any meetings of any legislative committee or subcommittee in connection with or in furtherance the adoption of HB 1.

REQUEST FOR PRODUCTION NO. 7: All documents, including electronically stored information, provided to or relied upon by (a) any expert who defendants intend to call to testify in this matter; or (b) any consultant, advisory, or other individual who provided advice or consultation concerning, or participated in the drawing, evaluation, or analysis of, the congressional districts adopted in HB 1.

DATED this 29th day of November 2021.

Respectfully submitted,

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* Admitted *Pro hac vice*
** *Pro hac vice* motions forthcoming
^ Request for admission to the Northern District of Alabama forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2021, a true and correct copy of the foregoing was served on all counsel of record by electronic mail.

/s/ Deuel Ross
Deuel Ross

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

EVAN MILLIGAN, et al., *Plaintiffs*, v. JOHN H. MERRILL, et al., *Defendants*.	Civil Case No. 2:21-CV-01530-AMM **PLAINTIFFS' NOTICE OF DEPOSITION FOR DEFENDANT JIM MCCLENDON**

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Plaintiffs Evan Milligan, Khadidah Stone, Adia Winfrey, Letetia Jackson, Shalela Dowdy, Greater Birmingham Ministries, and the Alabama State Conference of the NAACP, (collectively, "Plaintiffs") will take the deposition of Defendant Jim McClendon, in his official capacity as the Co-Chair of the Alabama Permanent Legislative Committee on Reapportionment. The deposition will commence on December 7, 2021, at 9:00 am CDT, at the Office of the Alabama Attorney General, 501 Washington Ave., Montgomery, AL 36104 (or at such other time and place as the parties may mutually agree upon). The deposition will be recorded stenographically by a certified court reporter and may be recorded by video and audio by a certified videographer. The deposition will take place by in-person and/or videoconference and will continue from day to day, or according to a schedule mutually agreed upon by the parties, until completed.

DATED this 29th day of November 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of November 2021, I electronically filed a true and correct copy of the foregoing on all counsel of record by electronic mail.

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

EVAN MILLIGAN, et al., *Plaintiffs*, v. JOHN H. MERRILL, et al., *Defendants.*	Civil Case No. 2:21-CV-01530-AMM **PLAINTIFFS' NOTICE OF DEPOSITION FOR DEFENDANT CHRIS PRINGLE**

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Plaintiffs Evan Milligan, Khadidah Stone, Adia Winfrey, Letetia Jackson, Shalela Dowdy, Greater Birmingham Ministries, and the Alabama State Conference of the NAACP, (collectively, "Plaintiffs") will take the deposition of Defendant Chris Pringle, in his official capacity as the Co-Chair of the Alabama Permanent Legislative Committee on Reapportionment. The deposition will commence on December 6, 2021, at 9:00 am CDT, at the Office of the Alabama Attorney General, 501 Washington Ave., Montgomery, AL 36104 (or at such other time and place as the parties may mutually agree upon). The deposition will be recorded stenographically by a certified court reporter, and may be recorded by video and audio by a certified videographer. The deposition will take place in-person and/or by videoconference and will continue from day to day, or according to a schedule mutually agreed upon by the parties, until completed.

DATED this 29th day of November 2021.

Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

EVAN MILLIGAN, et al., *Plaintiffs*, v. JOHN H. MERRILL, et al., *Defendants.*	Civil Case No. 2:21-CV-01530-AMM **PLAINTIFFS' NOTICE OF DEPOSITION FOR DEFENDANT RANDY HINAMAN**

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(1) of the Federal Rules of Civil Procedure, Plaintiffs Evan Milligan, Khadidah Stone, Adia Winfrey, Letetia Jackson, Shalela Dowdy, Greater Birmingham Ministries, and the Alabama State Conference of the NAACP, (collectively, "Plaintiffs") will take the deposition of Mr. Randy Hinaman. The deposition will commence on December 8, 2021, at 9:00 am CDT, at the Office of the Alabama Attorney General, 501 Washington Ave., Montgomery, AL 36104 (or at such other time and place as the parties may mutually agree upon). The deposition will be recorded stenographically by a certified court reporter, and may be recorded by video and audio by a certified videographer. The deposition will take place in-person and/or by videoconference and will continue from day to day, or according to a schedule mutually agreed upon by the parties, until completed.

DATED this 29th day of November 2021.

Respectfully submitted,

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