

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

EVAN MILLIGAN, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Case No. 2:21-cv-1530-AMM
)	
WES ALLEN, <i>et al.</i> ,)	THREE-JUDGE COURT
)	
<i>Defendants.</i>)	

**SECRETARY ALLEN’S AMENDED ANSWER TO
PLAINTIFFS’ AMENDED COMPLAINT**

Defendant Wes Allen, Alabama Secretary of State (“State Defendant”), for his Answer to Plaintiffs’ Amended Complaint (doc. 329), states as follows:

Answer to Numbered Paragraphs

1. Admitted that Plaintiffs filed this lawsuit against State Defendant. Denied that Plaintiffs are entitled to any relief.
2. Denied.
3. Admitted that the 2023 Plan was enacted after this Court’s preliminary injunction against Alabama’s 2021 congressional redistricting plan. This Court’s opinion speaks for itself. Admitted that the Supreme Court affirmed this Court’s decision that the 2021 Plan likely violated Section 2 of the VRA. Otherwise denied.

4. Admitted that Congressional District 7 (“CD7”) is a majority-minority district. Admitted that Congressional District 2 (“CD2”) has a black voting-age population of 39.93%. Otherwise denied.

5. This Court’s September 2023 order speaks for itself. Admitted that footnote one accurately lists the 18 core counties of the Black Belt. Otherwise denied.

6. Admitted that the Legislature made legislative findings with respect to the 2023 Plan. The findings speak for themselves and do not require a response. To the extent a response is required, the allegations are denied.

7. Denied.

8. Denied.

9. Admitted that according to 2020 Census data Alabama’s voting-age population is roughly 64% white and 27% black. Denied that racial bias is the cause of the political choices of voters. Admitted that CD7’s representative is black. Otherwise, State Defendant lacks sufficient information to admit or deny.

10. Denied.

11. Denied.

12. Admitted that Plaintiffs seek this relief. Denied that they are entitled to it.

13. State Defendant does not contest that this Court has jurisdiction under 28 U.S.C. §§ 1331, 1343, and 1357. Denied that Section 2 of the VRA creates a substantive right privately enforceable under § 1983. Denied that Section 2 contains a private cause of action.

14. Admitted that this Court has such authority generally. Denied that Plaintiffs are entitled to such relief.

15. State Defendant does not contest this Court's personal jurisdiction.

16. Admitted.

17. State Defendant does not contest venue in this District for purposes of challenges to the 2023 Plan.

18. Admitted that Plaintiff Evan Milligan is a black registered voter residing in CD2, and admitted that CD2 is majority white. Otherwise denied.

19. Admitted that Plaintiff Shalela Dowdy is a black registered voter residing in CD1, and admitted that CD1 is majority white. Otherwise denied.

20. Admitted that Plaintiff Letetia Jackson is a black registered voter residing in CD2, and admitted that CD2 is majority white. Otherwise denied.

21. Admitted that Plaintiff Khadidah Stone is a black registered voter residing in CD2, and admitted that CD2 is majority white. Otherwise denied.

22. Admitted that GBM describes itself as such.

23. Admitted that “GBM actively opposes state laws, policies and practices that” it believes “result in the exclusion of vulnerable groups or individuals from the democratic process.” Denied that the 2023 Plan excludes anyone from the democratic process. Otherwise admitted that GBM describes itself as such.

24. Admitted that GBM has begun calling donors “members.” State Defendant reserves the right to contest whether GBM has members for purposes of standing. Denied that the districts in which GBM’s “members” reside are the product of intentional and invidious discrimination. Denied that GBM’s “members” are the victims of illegal vote dilution. State Defendant lacks sufficient information to admit or deny the other allegations.

25. Admitted that the Alabama NAACP is the state conference of the National Association for the Advancement of Colored People, Inc. Admitted that the Alabama NAACP is the oldest civil rights organization in Alabama and describes itself as one of the most significant civil rights organizations in Alabama. State Defendant lacks sufficient information to admit or deny the allegations that the Alabama NAACP works to ensure the political, educational, social, and economic equality of Black Americans and all other Americans; that the two central goals of the Alabama NAACP are to eliminate racial discrimination in the democratic process, and to enforce federal laws and constitutional provisions securing voting rights.

Admitted that the Alabama NAACP works to advance its vision of political, educational, social, and economic equality of Black Americans and all other Americans; and that the Alabama NAACP regularly engages in efforts to register and educate voters and encourage Black people to engage in the political process by turning out to vote on Election Day. Admitted that the Alabama NAACP has participated in lawsuits regarding voting.

26. Denied that the districts in which the Alabama NAACP's members reside are the product of intentional and invidious discrimination. Denied that the Alabama NAACP's members are the victims of illegal vote dilution. State Defendant lacks sufficient information to admit or deny the other allegations.

27. Admitted.

28. Admitted that Senator Livingston and Representative Pringle are co-chairs of the Permanent Legislative Committee on Reapportionment. Admitted that Livingston and Pringle are sued in their official capacities. Admitted the second and third sentences of this paragraph. Otherwise denied.

29. Admitted.

30. Admitted that a black candidate was elected to Congress after the creation of a majority-black district in 1992. Further admitted that CD7 has consistently elected a black representative since 1992. Otherwise denied.

31. Admitted that the *Wesch* three-judge court selected one of the six plans proposed by the parties, modified that plan (to avoid a conflict between incumbents and to make certain areas more compact), and imposed a “court decreed” congressional plan, which contained a majority-black district. Otherwise denied.

32. Admitted that the Legislature did not enact a congressional plan to replace the *Wesch* court’s plan before the next census. Further admitted that the Legislature enacted new congressional plans to comply with the one-person, one-vote principle following the 2000 and 2010 Censuses. Otherwise denied.

33. Admitted.

34. Admitted that a racial polarization analysis was not conducted for the 2021 Plan. Otherwise denied.

35. Admitted.

36. This Court’s decision speaks for itself. Admitted that this Court held a seven-day preliminary injunction hearing. Admitted that the Court reviewed evidence, testimony, and briefing. Admitted that the Court granted Plaintiffs’ request for a preliminary injunction. Admitted that Defendants appealed. Otherwise denied.

37. The Supreme Court’s decision speaks for itself. Admitted that this Court’s preliminary injunction as affirmed. Otherwise denied.

38. Admitted.

39. Admitted that SB5 was enacted by the Legislature and signed into law by Governor Ivey. Also admitted that the 2023 Plan contains one majority-black district. Otherwise denied.

40. Admitted that the Committee adopted redistricting guidelines and that the Legislature made legislative findings with respect to the 2023 Plan. The findings speak for themselves and do not require a response. Otherwise denied.

41. The redistricting guidelines speak for themselves and do not require a response. Otherwise denied.

42. The findings and guidelines speak for themselves and do not require a response. Otherwise denied.

43. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise denied.

44. Senator Livingston's quoted testimony speaks for itself and does not require a response. Otherwise denied.

45. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise denied.

46. Admitted.

47. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise denied.

48. Admitted on information and belief.

49. Admitted.

50. Mr. Hinaman's quoted testimony speaks for itself and does not require a response. Otherwise denied.

51. Admitted.

52. Admitted.

53. Admitted.

54. Admitted.

55. Admitted.

56. State Defendant lacks sufficient information to admit or deny.

57. Admitted.

58. Admitted.

59. Admitted that Representative Pringle asked a historian to testify. Averred that the hearing took place on June 27, 2023. State Defendant lacks sufficient information to admit or deny the remaining allegations.

60. Admitted that Representative England proposed an amendment.

61. Admitted that Representative England's amendment was rejected and that the Committee adopted redistricting guidelines.

62. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise denied.

63. Admitted.

64. Admitted that Senator Livingston and Representative Pringle did not present plans at the public hearings.

65. Admitted.

66. Admitted. Also averred that the COI Plan passed along party lines.

67. Admitted.

68. Admitted. Also averred that the COI Plan passed the House along party lines.

69. Senator Livingston's quoted testimony speaks for itself and requires no response. State Defendant lacks sufficient information to admit or deny the remaining allegations.

70. Senator Livingston's quoted testimony speaks for itself and requires no response. Otherwise denied.

71. Admitted that the Opportunity Plan was introduced on July 17. State Defendant lacks sufficient information to admit or deny the remaining allegations and thus denies.

72. Admitted.

73. Admitted.

74. Denied.

75. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise denied.

76. Admitted. Averred that the Opportunity Plan passed the Senate along party lines.

77. Senator Livingston's quoted testimony speaks for itself and does not require a response. Otherwise denied.

78. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise, State Defendant lacks sufficient information to admit or deny.

79. Admitted that the 2023 Plan reflects these changes from Livingston Plan 2.

80. Senator Livingston's quoted testimony speaks for itself and does not require a response. Otherwise denied.

81. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise denied.

82. Admitted.

83. Admitted that Dr. Hood analyzed the 2023 Plan. Otherwise denied.

84. State Defendant lacks sufficient information to admit or deny this allegation.

85. Admitted. Averred that SB5 passed along party lines.

86. Admitted.

87. Representative Pringle's quoted testimony speaks for itself and does not require a response. Otherwise denied.

88. The legislative findings speak for themselves and require no response. Admitted that objections were made to the Committee's proposed plans and that various parties proposed various redistricting plans. Otherwise denied.

89. Representative Jones's declaration speaks for itself and requires no response. Otherwise denied.

90. Admitted that Plaintiffs objected to the 2023 Plan. Denied that those objections had merit. Otherwise denied.

91. Admitted.

92. Admitted that Defendants argued that the 2023 Plan could comply with Section 2 of the Voting Rights Act and other laws, even if it did not create two districts in which Democrats were likely to prevail in upcoming elections. Admitted that this Court preliminarily enjoined the use of the 2023 Plan for the 2024 congressional elections. This Court's decision speaks for itself. Otherwise denied.

93. Admitted that this Court ordered the Secretary to administer the congressional elections in Alabama under "Remedial Plan 3." Also admitted that Remedial Plan 3 splits the Black Belt and Wiregrass into two districts, and splits six counties, 31 municipalities, and 14 voting districts. Otherwise denied.

94. Admitted that the map produced is Remedial Plan 3. Averred that Remedial Plan 3 does not contain two majority-black BVAP districts. Otherwise denied.

95. Denied.

96. Denied.

97. Denied.

98. The quoted decision speaks for itself. Otherwise denied.

99. The case speaks for itself and are mischaracterized by the Plaintiff. Defendant denies that racial bias is the cause of voters' political choices. Otherwise denied.

100. Admitted that the *Brown* case from 1982 contains the quoted language. Otherwise denied.

101. Admitted that a Republican, who was white, won election to the U.S. House in CD1 in 2013 and 2014, beating a Democrat, who was black. Denied that racial bias is the cause of the political choice of voters.

102. Admitted that in 2020 Democrats lost in CD1, CD2, and CD3. Defendant lacks sufficient information to admit or deny the specific voting percentages, and thus denies. Denied that racial bias is the cause of the political choices of voters.

103. Admitted that, in the 2008 U.S. Senate race, the established Republican incumbent beat the Democratic challenger. The State Defendant lacks sufficient

information with regards to the voting percentages and thus denies. Further denied that some white voters voting for a Republican is evidence of ongoing racial discrimination or racism.

104. Admitted that Democrats have not enjoyed any success in statewide elections for offices in State government. Defendant lacks sufficient information with regard to the percentages and thus denies. Further denied that racial bias is the cause of the political choices of voters.

105. Defendant lacks sufficient information to admit or deny the allegations.

106. Denied that the majority of Alabama voters are making their choices at the polls based on racial bias. Denied that black voters only support black candidates or that every election shows racial polarization. Otherwise, Defendant lacks sufficient information to admit or deny the allegations.

107. Denied. Further denied that Section 2 establishes any right to proportional representation.

108. Admitted that Democrats are unlikely to win in CDs 1, 2, 3, 4, and 6. Averred that no elections have been held using the 2023 Plan's lines. Otherwise, Defendant lacks sufficient information to admit or deny the allegations.

109. Admitted that Republican incumbent Bradley Byrne won re-election in 2018. Averred that Republican candidate Jerry Carl won in 2020. Admitted that both Republican candidates won by large margins. Otherwise denied.

110. Admitted that Republican candidate Barry Moore won in 2020 and that Republican incumbent Martha Roby won re-election in 2018. Admitted that both Republican candidates won by large margins. Otherwise denied.

111. Admitted that Republican incumbent Mike Rogers won re-election in 2018 and 2020 and that he won by large margins. Averred that the losing Democrat in 2018 publicly assigned blame to the Alabama Democratic Party for its failure to adequately support its candidates. Averred that Mallory Hagan is white. Otherwise denied.

112. No response is required to allegations of law.

113. No response is required to allegations of law. Admitted that courts have identified at least nine Senate Factors. Denied that the Senate Factors have any force of law or are probative.

114. Admitted that some courts and the DOJ have so determined. Denied that such decisions evidence ongoing racial discrimination in voting. Averred that the 2011 Congressional Plan was precleared by the Department of Justice and that no federal court held the plan unlawful.

115. Admitted that the Legislature did not reapportion for 50 years, which led to the Supreme Court's development of the one-person, one-vote principle. Admitted that Plaintiffs accurately quote the holding of the 1965 decision in *Sims v. Baggett*. Averred that the Supreme Court admonishes that "history did not end in

1965” and that the purpose of the Fifteenth Amendment is “not to punish the past.” *Shelby County*, 570 U.S. at 552-53. Also averred that “past discrimination cannot, in the manner of original sin, condemn governmental action that is not itself unlawful.” *City of Mobile v. Bolden*, 446 U.S. 55, 74 (1980).

116. Admitted that a three-judge court drew new district lines following the 1970 Census. Admitted that the U.S. Attorney General denied preclearance and that a three-judge court rejected Alabama’s proposed interim remedial state maps. Admitted that DOJ objected under Section 5 to the Legislature’s 1982 maps. The court decisions and DOJ letters speak for themselves. Averred that “past discrimination cannot, in the manner of original sin, condemn governmental action that is not itself unlawful.” *Bolden*, 446 U.S. at 74. Otherwise denied.

117. Admitted that *Brooks v. Hobbie* describes the procedural history of litigation concerning the State Legislature and says that litigation was resolved based on a consent judgment adopting a plan that was precleared by DOJ. Admitted that DOJ objected under Section 5 to the 1992 Plan. Otherwise denied.

118. Admitted that a legal challenge was filed and that a court held that the Alabama Legislature incorrectly assessed its obligations under Section 5 in drawing 12 of 140 State legislative districts. Denied that the court found any evidence of invidious discriminatory intent.

119. Admitted that this Court enjoined the 2021 Plan and that this initial order was affirmed by the Supreme Court. Also admitted that the 2023 Plan was preliminarily enjoined by this Court. Denied that this constitutes evidence of ongoing racial discrimination in voting.

120. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

121. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

122. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

123. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

124. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

125. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

126. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

127. State Defendant lacks sufficient information to admit or deny the allegations.

128. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

129. Admitted that in 1964 and 1965, Dallas County Sheriff Jim Clark, Alabama state troopers, and vigilantes violently assaulted peaceful black protesters in Selma attempting to gain access to the franchise. Otherwise denied.

130. Admitted except that State Defendant lacks sufficient information to admit or deny the allegations as to registration in Selma in 1965.

131. Admitted that the referenced website includes a list of at least one hundred objections by DOJ to changes adopted by the State or by county officials or by city officials and also by political parties. Averred that the list is known to contain at least one error in that the second to last objections was actually to a State change,

not a Mobile change, and the objection was withdrawn following the Supreme Court's decision in Governor Riley's favor in *Riley v. Kennedy*, 553 U.S. 406 (2008). Admitted that at least sixteen of the objections were to redistricting plans adopted by the State or a county or a city; averred that the last such objection to a redistricting plan adopted by the State was in 1992. Denied that the fact of an objection means "a proposed state or local redistricting plan had the purpose or would have had the effect of diminishing the ability of Black voters to elect their candidates of choice."

132. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

133. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination. Averred that many jurisdictions chose to settle litigation rather than devote resources to fighting it; that the Democratic Attorney General offered some defendant jurisdictions assistance with settlement but not litigation; that some of the settlements contained changes to the size of challenged bodies—which were not required by Section 2—as subsequently held in *Holder v. Hall*, 512 U.S. 874 (1994); and that Alabama responded by adopting the changes *via* State law rather than moving to have the judgments undone.

134. Admitted that some of Plaintiffs' counsel reached agreements with local officials in the cited cases and that the court in the *Jones* decision held that a violation occurred based on a sparse recitation of facts. The cases speak for themselves. Denied that *Jones* involved a municipal entity.

135. Admitted that such suits have been filed that alleged racial discrimination. The decisions speak for themselves. Averred that the injunctions entered in *People First* were stayed and that the case mooted after the election and before appellate review occurred.

136. Admitted that two political subdivisions had been bailed into preclearance review under Section 3 of the Voting Rights Act. Otherwise, State Defendant lacks sufficient information to admit or deny the allegations.

137. Admitted that Alabama requires a candidate in a primary election for federal, state, or county office to receive a majority of votes to proceed directly to the General Election. Denied that this policy has a discriminatory effect.

138. State Defendant neither denies nor defends past discrimination in Alabama. The quoted decision speaks for itself. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

139. Denied.

140. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

141. The *Stout* decision speaks for itself. Admitted that some Alabama school districts remain under desegregation orders. Otherwise, State Defendant lacks sufficient information to admit or deny the allegations.

142. Admitted that the Alabama Constitution contained such language. Averred that it contains such language no longer. Denied that the language is evidence of ongoing discrimination or underlying prejudice.

143. State Defendant neither denies nor defends past discrimination in Alabama. Denied that conditions remain the same or that Alabama has a recent history of racial discrimination.

144. The cited decisions speak for themselves. Denied that such decisions are evidence of the “vestiges of segregation” that exist in 2024.

145. State Defendant lacks sufficient information to admit or deny the allegations.

146. State Defendant lacks sufficient information to admit or deny the allegations.

147. State Defendant lacks sufficient information to admit or deny the allegations.

148. Denied that racial discrimination currently finds expression in employment opportunities. Otherwise, State Defendant lacks sufficient information to admit or deny the allegations.

149. State Defendant lacks sufficient information to admit or deny the allegations.

150. State Defendant lacks sufficient information to admit or deny the allegations.

151. State Defendant lacks sufficient information to admit or deny the allegations.

152. State Defendant lacks sufficient information to admit or deny the allegations.

153. Denied that there is ongoing racial discrimination. Otherwise, State Defendant lacks sufficient information to admit or deny the allegations.

154. State Defendant lacks sufficient information to admit or deny the allegations.

155. Denied that there is ongoing racial discrimination. Otherwise, State Defendant lacks sufficient information to admit or deny the allegations.

156. State Defendant lacks sufficient information to admit or deny the allegation.

157. State Defendant lacks sufficient information to admit or deny the allegation.

158. Admitted upon information and belief that an investigation was opened in 2021 and that a complaint was filed with the EPA in 2023.

159. State Defendant lacks sufficient information to admit or deny the allegation.

160. State Defendant lacks sufficient information to admit or deny the allegation.

161. State Defendant lacks sufficient information to admit or deny the allegation.

162. Admit that a federal court so found while finding an absence of vote dilution in Alabama. Otherwise, State Defendant lacks sufficient information to admit or deny the allegations.

163. Denied. Further denied that Section 2 establishes any right to proportional representation; instead, Section 2 provides “[t]hat nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population.” 52 U.S.C. § 10301(b).

164. Admitted that, since 1993, one member of Alabama’s congressional delegation has been black. Otherwise denied.

165. Admitted that Justice Adams, Justice Cook, and Justice England were appointed to the Alabama Supreme Court and that they are black. Further admitted that Justice Adams and Justice Cook subsequently won election to the Alabama Supreme Court. Further admitted that Justice Cook and Justice England, both Democrats, lost as part of a Republican takeover of the court. Both Justices lost to Republicans who were white. Averred that Judge Bill Lewis was appointed in 2024 by Governor Ivey to the Alabama Court of Civil Appeals. Admitted that no current statewide officeholder was elected as a Democrat.

166. State Defendant lacks sufficient information to admit or deny the allegation.

167. Admitted.

168. State Defendant lacks sufficient information to admit or deny the allegations. Denied that only black representatives can respond to the particularized needs of black communities.

169. Admitted that plaintiffs have quoted a blog post. Otherwise, State Defendant lacks sufficient information to admit or deny the allegations.

170. State Defendant lacks sufficient information to admit or deny the allegations.

171. State Defendant lacks sufficient information to admit or deny the allegations.

172. Admitted that a memorandum agreement, which speaks for itself, was signed. Denied that Alabama governmental action was unresponsive or motivated by racism. Admitted that Alabama's previously-enacted photo ID law was scheduled to go into effect at a date certain and that the date followed the decision in *Shelby County v. Holder*. Averred that photo IDs were and are available at more places than ALEA offices, and that Alabama's photo ID law has been upheld by the federal courts.

173. Admitted that Plaintiffs have quoted this Court's decision, which speaks for itself. Otherwise denied.

174. Admitted that Plaintiffs have quoted this Court's decision, which speaks for itself. Otherwise denied.

175. Denied.

176. The cases speak for themselves and do not require a response. Nor do allegations of law.

177. Denied.

178. The *Wesch* decision speaks for itself. Denied that the *Wesch* litigation constitutes any evidence of intentional and invidious discrimination against black Alabamians. Further denied that "discriminatory intent" is "at play," or that the *Wesch* litigation provides any context.

179. Denied that the *Wesch* court was guilty of gerrymandering, packing, or other forms of racial discrimination when it adopted a congressional districting plan in 1992, in a case where John England, Jr., was among the attorneys and Michael Figures was among the intervening plaintiffs. Admitted that DOJ objected under Section 5 to the 1992 Plan. The *Wesch* decision and DOJ Objection letter speak for themselves. Otherwise denied.

180. The cited cases speak for themselves. Otherwise denied.

181. Denied that a discriminatory purpose infected the plan adopted the *Wesch* court or that the 2001 or 2011 congressional plans were tainted by the 1992 Plan's alleged racism. Otherwise denied.

182. Denied.

183. Admit that plaintiffs have accurately quoted a news article. Otherwise denied.

184. Denied. Averred that SB5 passed along party lines.

185. Denied.

186. Denied that the process leading to the enactment of the 2023 Plan evidences discriminatory intent on the part of the Legislature. Denied that the Legislature acted in "defiance" of any court order, when the preliminary injunction related to the 2021 Plan applied solely to the Secretary of State, the injunction prohibited the Secretary from certifying the results of an election held under the 2021 Plan, and

the Secretary complied with the injunction. Otherwise, State Defendant lacks sufficient information to admit or deny the remaining allegations.

187. State Defendant lacks sufficient information to admit or deny the accuracy of alleged quotations by legislators. Otherwise denied.

188. Denied.

189. Denied.

Count I

190. Defendant adopts and incorporates the foregoing responses.

191. Denied.

192. Denied.

193. Denied.

194. Denied.

195. Denied.

196. Denied.

Count II

197. Defendant adopts and incorporates the foregoing responses.

198. Allegations of law require no response.

199. Denied.

200. Denied.

201. Denied.

202. Denied.

203. Denied. Averred that, due to the Census Bureau's delay in releasing the Census data and the need to draw four different maps, the proposed maps were released later than in most redistricting cycles. Also averred that the 2021 Plan passed along party lines.

204. Denied.

205. Denied.

PRAYER FOR RELIEF: Defendant denies that Plaintiffs are entitled to any relief.

General Denial

Defendant denies each and every allegation in Plaintiffs' Amended Complaint that is not expressly admitted above.

Additional Defenses

1. Plaintiffs fail to state a claim upon which relief can be granted.
2. Plaintiffs have no lawful remedy.
3. The congressional districts that Plaintiffs propose violate traditional districting criteria and fail to properly defer to the Legislature's primary role in the redistricting process.
4. The relief sought by Plaintiffs would involve an unconstitutional racial gerrymander because they request a map in which racial considerations predominate over traditional districting criteria.

5. To the extent Plaintiffs seek relief before the 2024 elections, it would be inequitable to affirm them relief so soon before the elections.

6. The Legislature drew districts without consideration of race and is not guilty of racial gerrymandering or intentional discrimination.

7. The relief Plaintiffs request is against the public interest.

8. Section 2, properly construed, does not support a claim for vote dilution based on a challenge to a districting plan.

9. To the extent that Section 2 requires Alabama to draw districts with consideration of race, Section 2 is unconstitutional.

10. To the extent that Section 2 requires Alabama to draw districts that violate traditional districting criteria, Section 2 is unconstitutional.

11. To the extent that Section 2 permits a finding of liability without proof of intentional discrimination, Section 2 is unconstitutional.

12. Alabama neither “cracked” nor “packed” minority voters in its congressional districts.

13. If Section 2 permits the relief Plaintiffs request, or recognizes the claim Plaintiffs assert, Section 2 is not proportional and congruent.

14. Section 2 does not provide a private right of action.

15. Section 2 does not create a substantive right that can be remedied through an action under § 1983.

16. Plaintiffs fail to satisfy the three *Gingles* requirements.
17. The totality of the circumstances does not support a claim of vote dilution.
18. Any alleged vote dilution is not on account of race or color.
19. To the extent that Section 2 requires a court to assume that polarized voting is evidence of racial bias, Section 2 is unconstitutional.
20. To the extent that Section 2 requires a court to assume that a white voter's support of Republican candidates is evidence of racial bias, Section 2 is unconstitutional.

Done this 1st day of August, 2024.

Steve Marshall
Attorney General

s/ Edmund G. LaCour Jr.
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Solicitor General

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CERTIFICATE OF SERVICE

I certify that on August 1, 2024, I electronically filed the foregoing notice with the Clerk of the Court using the CM/ECF system, which will send notice to all counsel of record.

s/ Edmund G. LaCour Jr.
Counsel for Secretary Allen

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