

Hogan Lovells joins groups in legal challenges over Alabama racial gerrymandering

BIRMINGHAM, Ala. – Individual voters joined with civil rights and faith groups today to file a pair of lawsuits in federal court challenging Alabama’s newly drawn political maps for state legislative and congressional districts.

The cases were brought on behalf of Greater Birmingham Ministries, Alabama State Conference of the NAACP, and several individuals who are being represented by the American Civil Liberties Union, ACLU of Alabama, NAACP Legal Defense and Educational Fund, Inc. (LDF), Southern Poverty Law Center (SPLC), Hogan Lovells LLP, and the firm Wiggins, Childs, Pantazis, Fisher & Goldfarb.

The lawsuits cite Alabama’s “sordid record” of its white majority using racial discrimination to maintain power. The suits charge that the newly drawn congressional redistricting map denies Black residents equal opportunity to participate in the political process and elect candidates of choice, and that both the congressional and state legislative maps result from racial gerrymanders that intentionally pack and crack Black communities in the state, which denies such communities equal protection of the laws.

Because of this, the lawsuits describe how Alabama’s new district maps violate the 14th Amendment of the U.S. Constitution, and how the congressional map also violates Section 2 of the Voting Rights Act of 1965.

Plaintiffs are requesting a federal court step in to enjoin – or halt – the maps’ implementation to prevent harms to Black Alabamians.

New political maps are drawn as part of a once-in-a-decade redistricting process triggered by census data, that determine the allocation of political power, representation, and ultimately resource access at every level of government across the country for the next 10 years.

“Cracking” refers to splitting communities of color into different districts to prevent them from exercising greater political power. “Packing” refers to placing people of color into the same district in greater numbers than necessary to elect candidates of choice to prevent them from exercising greater political power in surrounding districts.

According to the lawsuits, Alabama’s steadfast refusal to address the rights of its Black residents is directly linked to its historical and present conditions of racial discrimination against Black people.

In five of the six redistricting cycles since 1960, the U.S. Department of Justice or federal courts have found that Alabama’s legislative districts – congressional, state, or both – violate the rights of voters under the U.S. Constitution or the Voting Rights Act.

Again, in this latest round of drawing political districts, Alabamians had no access to potential maps during the so-called “community input” process that predated the special legislative session. Legislative leaders drew political maps in secret, and at the 11th hour, presented the maps challenged today that use race as a predominant factor in determining district lines – but not in a way tailored to comply with the Voting Rights Act.

The comments below are from co-counsel and plaintiffs.

Co-counsel comments:

Deuel Ross, Senior Counsel, NAACP Legal Defense and Education Fund, Inc. (LDF): “What Alabama is attempting to do here is not only wrong and undemocratic. It’s also a clear extension

of a sadly consistent pattern in Alabama history in which lawmakers and powerbrokers use cynical measures in an attempt to marginalize Black and brown communities.”

JaTaune Bosby, Executive Director, ACLU of Alabama: “The Legislature had opportunities to consult with experts to ensure their maps were constitutional, but instead they continued on the path that has led to decades of diluting Black voting power. Alabamians deserve better from our elected officials, but those representatives aren’t letting us have a choice, so once again, we’re fighting back in the courts to protect the rights for all.”

Davin Rosborough, Senior Staff Attorney, ACLU’s Voting Rights Project: “These new maps weaponize race to undermine the political power of communities of color in Alabama. These maps violate the Constitution and run contrary to basic principles of fairness and representative democracy.”

Caren Short, Senior Supervising Attorney, Southern Poverty Law Center: “By packing Black voters into a small number of districts and breaking up communities of color throughout the rest of the state, Alabama’s leaders are diminishing the political power of Black Alabamians, which is unlawful. This builds on a long history of racial discrimination in voting in Alabama – particularly when drawing political districts – that demands a court-ordered redrawing of maps immediately.”

Shelita Stewart, Partner, Hogan Lovells: “Today we filed complaints in Alabama federal court seeking to redress the racial gerrymandering that motivated the recently and hurriedly enacted state legislative and congressional redistricting maps. These maps, drawn by the Alabama Legislature, would dictate elections over the next decade. On behalf of individual and institutional plaintiffs directly injured by such gerrymandering, we have asked the court to declare the maps unconstitutional, in violation of the plaintiffs’ 14th Amendment rights, and that their use violates

the federal Voting Rights Act. The complaints request that the defendants be enjoined from holding elections using these maps.”

Sidney Jackson, Partner, Wiggins Childs Pantazis Fisher & Goldfarb, LLC.: “The latest Alabama redistricting maps demonstrate that although voting is a fundamental right, it is not immune from gamesmanship designed to weaken minority votes. The federal complaints filed today should send the clear message that we will not stand idly by when such violative acts take place. Rather, we will stand on the shoulders of those who fought before us and keep up the good fight until such blatant infringements are only read about in the texts of our children’s history books.”

Plaintiff comments:

Scott Douglas, Executive Director, Greater Birmingham Ministries: “These maps directly dilute Black voting power. Black people make up over a fourth of Alabama’s population, yet Alabama purposefully ignored us in the redrawing process. Alabama intentionally drew these maps, which will shape the state’s electoral process over the next decade, to prevent Black people from electing candidates who represent our community and prioritize our concerns. We cannot allow Alabama’s elected officials to silence our voices.”

Benard Simelton, President, Alabama State Conference of the NAACP: “It is crucial that Black Alabamians have the opportunity to elect government officials we believe will best serve us. Although no longer controlled by Section 5 of the Voting Rights Act, Alabama is still required to provide Black Alabamians that opportunity – these maps attempting to rob our state of its diversity notwithstanding. We will continue this fight for our dignity and political voice, as we long have, in the courts.”

Evan Milligan, Plaintiff: “I have lived most of my life in Montgomery, in what was historically Congressional District 2 and more recently reclassified as District 7. On more than one

occasion, the people in these communities have dramatically impacted the course of this nation's history – particularly as to civil and human rights. The congressional map signed into law by our governor is based on a reckless ignorance of the lessons that history teaches. Even with the extended time provided by the delayed release of census data, our Legislature failed to study racially polarized voting so that their map-making decisions could be guided by an interest in protecting the civil rights of Alabama's nonwhite voters. As a result, our representatives have chosen a congressional map that dilutes the voices of the very communities responsible for the state's population growth over the last 10 years. I am proud to stand alongside the other plaintiffs and our attorneys in challenging this map."

The Hogan Lovells team included partners Shelita Stewart and Jessica Ellsworth (both Washington, D.C.), David Dunn (New York), and Michael Turrill (Los Angeles).

The cases are Thomas v. Merrill and Milligan v. Merrill.