

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

LIONEL GUSTAFSON, MARTHA)
HOSEY, BILLY RAY DUKES, JR.,)
THOMAS M. BROWN, BOB)
CLEMONS, GILBERT DOUGLAS,)
DAVID HAMMONDS,)
ELAINE LITTLE,)
WILLIAM D. MEIERS, LOWELL)
MOORE, PAT MOORE, GEORGE)
OLDROYD, LOUIS PEARSON,)
RICK RENSHAW, JOE SANDERS,)
RAY STYLES, JASON UPTON,)
KEITH WARD, and BILL R. WOOD,)

Plaintiffs,)

v.)

CIVIL ACTION NO. 1:05-cv-00352-CG-L

ADRIAN JOHNS, in his official)
capacity as Probate Judge of Baldwin)
County, Alabama; ALFRED Q. BOOTH,)
in his official capacity as Probate Judge)
of Autauga County, Alabama; NANCY)
O. ROBERTSON, in her official capacity)
as Probate Judge of Barbour County,)
Alabama; JERRY C. POW, in his)
official capacity as Probate Judge of)
Bibb County, Alabama; ROYCE KING)
in his official capacity as Probate Judge)
of Blount County, Alabama; JOHNNY)
H. WILLIAMSON, in his official capacity)
as Probate Judge of Bullock County,)
Alabama; STEVE NORMAN, in his)
official capacity as Probate Judge of)
Butler County, Alabama; ARTHUR C.)
MURRAY, in his official capacity as)
Probate Judge of Calhoun County,)
Alabama; JOHN T. CROWDER, in his)
official capacity as Probate Judge of)
Chambers County, Alabama; J. KIRK)
DAY in his official capacity as Probate)
Judge of Cherokee County, Alabama;)
ROBERT M. MARTIN, in his official)

THREE-JUDGE COURT

capacity as Probate Judge of Chilton)
County, Alabama; MICHAEL W.)
ARMISTEAD, in his capacity as Probate)
Judge of Choctaw County, Alabama;)
BECKY PRESNALL, in her official)
capacity as Probate Judge of Clarke)
County, Alabama; GEORGE M.)
INGRAM, in his official capacity as)
Probate Judge of Clay County, Alabama;)
RYAN ROBERTSON, in his official)
capacity as Probate Judge of Cleburne)
County, Alabama; WILLIAM O.)
GAMMILL, in his official capacity as)
Probate Judge of Coffee County,)
Alabama; W. THOMAS CROSSLIN, in)
his official capacity as Probate Judge of)
Colbert County, Alabama; ROGENE)
BOOKER, in her official capacity as)
Probate Judge of Conecuh County)
Alabama; TERRY MITCHELL, in his)
official capacity as Probate Judge of)
Coosa County, Alabama; SHERRIE R.)
PHILLIPS, in her official capacity as)
Probate Judge of Covington County,)
Alabama; JAMES V. PERDUE, in his)
official capacity as Probate Judge of)
Crenshaw County, Alabama; BETTY)
BREWER, in her official capacity as)
Probate Judge of Cullman County,)
Alabama; EUNICE HAGLER, in her)
official capacity as Probate Judge of)
Dale County, Alabama; JOHN W.)
JONES, Jr., in his official capacity as)
Probate Judge of Dallas County,)
Alabama; RONNIE OSBORN, in his)
official capacity as Probate Judge of)
DeKalb County, Alabama; JIMMY)
STUBBS, in his official capacity as)
Probate Judge of Elmore County,)
Alabama; RACHEL AGERTON, in her)
official capacity as Probate Judge of)
Escambia County, Alabama; BOBBY M.)
JUNKINS, in his official capacity as)
Probate Judge of Etowah County,)
Alabama; WILLIAM OSWALT, in his)
official capacity as Probate Judge of)

Fayette County, Alabama; MIKE)
GREEN, in his official capacity as)
Probate Judge of Franklin County,)
Alabama; HARRY O. ADKISON, in his)
official capacity as Probate Judge of)
Geneva County Alabama; EARLEAN)
ISAAC, in her official capacity as)
Probate Judge of Greene County,)
Alabama, LELAND AVERY, in his)
official capacity as Probate Judge of)
Hale County, Alabama; LAMAR)
TURNER, in his official capacity as)
Probate Judge of Henry County,)
Alabama; LUKE COOLEY, in his)
official capacity as Probate Judge of)
Houston County, Alabama; FLOYD)
HAMBRICK, JR., in his official capacity)
as Probate Judge of Jackson County)
Alabama; MARK GAINES, in his official)
capacity as Probate Judge of Jefferson)
County, Alabama; JOHNNY ROGERS,)
in his official capacity as Probate Judge)
of Lamar County, Alabama; DEWEY)
D. MITCHELL, III, in his official)
as Probate Judge of Lauderdale County,)
Alabama; R. I. PROCTOR, in his official)
capacity as Probate Judge of)
Lawrence County, Alabama; BILL)
ENGLISH, in his official capacity as)
Probate Judge of Lee County, Alabama;)
MICHAEL L. DAVIS, in his official)
capacity as Probate Judge of Limestone)
County, Alabama; JOHN E. HULETT, in)
his official capacity as Probate Judge of)
Lowndes County, Alabama; ALFONZA)
MENEFEE, in his official capacity as)
Probate Judge of Macon County,)
Alabama; TOMMY RAGLAND, in his)
official capacity as Probate Judge of)
Madison County, Alabama; CINDY D.)
NEILSON, in her official capacity as)
Probate Judge of Marengo County,)
Alabama; ANNETTE WEBB HANEY,)
in her official capacity as Probate Judge)
of Marion County, Alabama; TIM)
MITCHELL, in his official capacity as)

Probate Judge of Marshall County,)
Alabama; DON DAVIS, in his official)
capacity as Probate Judge of Mobile)
County, Alabama; OTHA LEE BIGGS,)
in his official capacity as Probate Judge)
of Monroe County, Alabama; REESE)
McKINNEY, JR., in his official capacity)
as Probate Judge of Montgomery County)
Alabama; BOBBY DAY, in his official)
capacity as Probate Judge of Morgan)
County, Alabama; DONALD COOK,)
in his official capacity as Probate Judge)
of Perry County, Alabama; ROY)
KELLY, in his official capacity as)
Probate Judge of Pickens County,)
Alabama; WILLIAM C. STONE, in his)
official capacity as Probate Judge of)
Pike County, Alabama; GEORGE)
DIAMOND, in his official capacity as)
Probate Judge of Randolph County,)
Alabama; ALBERT HOWARD, in his)
official capacity as Probate Judge of)
Russell County, Alabama; WALLACE)
WYATT, JR., in his official capacity as)
Probate Judge of St. Clair County,)
Alabama; PATRICIA YEAGER)
FUHRMEISTER, in her official capacity)
as Probate Judge of Shelby County,)
Alabama; WILLIE PEARL WATKINS-)
RICE, in her official capacity as Probate)
Judge of Sumter County, Alabama;)
BILLY L. ATKINSON, in his official)
Capacity as Probate Judge of Talladega)
County, Alabama; GLORIA T.)
SINCLAIR, in her official capacity as)
Probate Judge of Tallapoosa County,)
Alabama; W. HARDY McCOLLUM,)
in his official capacity as Probate Judge)
of Tuscaloosa County, Alabama; RICK)
ALLISON, in his official capacity as)
Probate Judge of Walker County,)
Alabama; JOHN H. ARMSTRONG, in)
his official capacity as Probate Judge of)
Washington County, Alabama; JERRY)
BOGGAN, in his official capacity as)
Probate Judge of Wilcox County,)

Alabama; CaSANDRA HORSLEY, in)
her official capacity as Probate Judge of)
Winston County, Alabama; and)
NANCY WORLEY, in her official)
capacities as Secretary of State of)
Alabama and Chief State Elections)
Official of the State of Alabama)
)
Defendants.)

ANSWER OF STATE ELECTION OFFICIALS TO PLAINTIFFS' FIRST AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND OTHER RELIEF

Adrian Johns, in his official capacity as Probate Judge of Baldwin County, Alabama; Alfred Q. Booth, in his official capacity as Probate Judge of Autauga County, Alabama; Nancy O. Robertson, in her official capacity as Probate Judge of Barbour County, Alabama; Jerry C. Pow, in his official capacity as Probate Judge of Bibb County, Alabama; Royce King, in his official capacity as Probate Judge of Blount County, Alabama; Johnny H. Williamson, in his official capacity as Probate Judge of Bullock County, Alabama; Steve Norman, in his official capacity as Probate Judge of Butler County, Alabama; Arthur C. Murray, in his official capacity as Probate Judge of Calhoun County, Alabama; John T. Crowder, in his official capacity as Probate Judge of Chambers County, Alabama; J. Kirk Day, in his official capacity as Probate Judge of Cherokee County, Alabama; Robert M. Martin, in his official capacity as Probate Judge of Chilton County, Alabama; Michael W. Armistead, in his capacity as Probate Judge of Choctaw County, Alabama; Becky Presnall, in her official capacity as Probate Judge of Clarke County, Alabama; George M. Ingram, in his official capacity as Probate Judge of Clay County, Alabama; Ryan Robertson, in his official capacity as Probate Judge of Cleburne County, Alabama; William O. Gammill, in his official capacity as Probate Judge of Coffee County, Alabama; W. Thomas Crosslin, in his official capacity as Probate Judge of Colbert County,

Alabama; Rogene Booker, in her official capacity as Probate Judge of Conecuh County Alabama; Terry Mitchell, in his official capacity as Probate Judge of Coosa County, Alabama; Sherrie R. Phillips, in her official capacity as Probate Judge of Covington County, Alabama; James V. Perdue, in his official capacity as Probate Judge of Crenshaw County, Alabama; Betty Brewer, in her official capacity as Probate Judge of Cullman County, Alabama; Eunice Hagler, in her official capacity as Probate Judge of Dale County, Alabama; John W. Jones, Jr., in his official capacity as Probate Judge of Dallas County, Alabama; Ronnie Osborn, in his official capacity as Probate Judge of DeKalb County, Alabama; Jimmy Stubbs, in his official capacity as Probate Judge of Elmore County, Alabama; Rachael Agerton, in her official capacity as Probate Judge of Escambia County, Alabama; Bobby M. Junkins, in his official capacity as Probate Judge of Etowah County, Alabama; William Oswalt, in his official capacity as Probate Judge of Fayette County, Alabama; Mike Green, in his official capacity as Probate Judge of Franklin County, Alabama; Harry O. Adkison, in his official capacity as Probate Judge of Geneva County Alabama; Earlean Isaac, in her official capacity as Probate Judge of Greene County, Alabama, Leland Avery, in his official capacity as Probate Judge of Hale County, Alabama; Lamar Turner, in his official capacity as Probate Judge of Henry County, Alabama; Luke Cooley, in his official capacity as Probate Judge of Houston County, Alabama; Floyd Hambrick, Jr., in his official capacity as Probate Judge of Jackson County Alabama; Mark Gaines, in his official capacity as Probate Judge of Jefferson County, Alabama; Johnny Rogers, in his official capacity as Probate Judge of Lamar County, Alabama; Dewey D. Mitchell, III, in his official as Probate Judge of Lauderdale County, Alabama; R. I. Proctor, in his official capacity as Probate Judge of Lawrence County, Alabama; Bill English, in his official capacity as Probate Judge of Lee County, Alabama; Michael L. Davis, in his official capacity as Probate Judge of Limestone County,

Alabama; John E. Hulett, in his official capacity as Probate Judge of Lowndes County, Alabama; Alfonza Menefee, in his official capacity as Probate Judge of Macon County, Alabama; Tommy Ragland, in his official capacity as Probate Judge of Madison County, Alabama; Cindy D. Neilson, in her official capacity as Probate Judge of Marengo County, Alabama; Annette Webb Haney, in her official capacity as Probate Judge of Marion County, Alabama; Tim Mitchell, in his official capacity as Probate Judge of Marshall County, Alabama; Don Davis, in his official capacity as Probate Judge of Mobile County, Alabama; Otha Lee Biggs, in his official capacity as Probate Judge of Monroe County, Alabama; Reese McKinney, Jr., in his official capacity as Probate Judge of Montgomery County Alabama; Bobby Day, in his official capacity as Probate Judge of Morgan County, Alabama; Donald Cook, in his official capacity as Probate Judge of Perry County, Alabama; Roy Kelly, in his official capacity as Probate Judge of Pickens County, Alabama; William C. Stone, in his official capacity as Probate Judge of Pike County, Alabama; George Diamond, in his official capacity as Probate Judge of Randolph County, Alabama; Albert Howard, in his official capacity as Probate Judge of Russell County, Alabama; Wallace Wyatt, Jr., in his official capacity as Probate Judge of St. Clair County, Alabama; Patricia Yeager Fuhrmeister, in her official capacity as Probate Judge of Shelby County, Alabama; Willie Pearl Watkins-Rice, in her official capacity as Probate Judge of Sumter County, Alabama; Billy L. Atkinson, in his official Capacity as Probate Judge of Talladega County, Alabama; Gloria T. Sinclair, in her official capacity as Probate Judge of Tallapoosa County, Alabama; W. Hardy McCollum, in his official capacity as Probate Judge of Tuscaloosa County, Alabama; Rick Allison, in his official capacity as Probate Judge of Walker County, Alabama; John H. Armstrong, in his official capacity as Probate Judge of Washington County, Alabama; Jerry Boggan, in his official capacity as Probate Judge of Wilcox County, Alabama; CaSandra

Horsley, in her official capacity as Probate Judge of Winston County, Alabama; and Nancy Worley, in her official capacities as Secretary of State of Alabama and Chief State Elections Official of the State of Alabama, defendants in this action (the “State Election Officials”), answer the Plaintiffs’ First Amended Complaint for Declaratory, Injunctive, and Other Relief (Doc. 9) as follows:

SPECIFIC RESPONSES

1. Paragraph 1 of the Complaint contains a general description of the lawsuit, and no response to it is required. To the extent a response is required, the State Election Officials admit that Plaintiffs challenge the legislative redistricting plans for the Alabama State Senate and the Alabama House of Representatives adopted in 2001, *see* Ala. Code § 29-1-1.2(a) (2003) (House districts); Ala. Code § 29-1-2.3(a) (2003) (Senate districts), but deny that the Plaintiffs are entitled to any relief under any of the provisions cited in Paragraph 1 or on any other grounds.

2. Paragraph 2 of the Complaint describes the Plaintiffs’ claims. To the extent a response is required, the State Election Officials deny the allegations in Paragraph 2 of Plaintiffs’ First Amended Complaint and deny that Plaintiffs are entitled to relief on the grounds stated or any other grounds.

3. Paragraph 3 of the Complaint describes the legal basis for plaintiffs’ claims, and no response to it is required. To the extent a response is required, the State Election Officials deny that Plaintiffs have stated or can establish a claim for relief under those provisions.

4. Paragraph 4 is a jurisdictional allegation as to which no response is required.

5. The State Election Officials deny the allegations of paragraph 5.

6. No response to paragraph 6 is required because a three-judge court has been convened.

7. No response to the allegations of paragraph 7 is required.

8. With respect to the allegations of Paragraph 8, the State Election Officials admit that the total population of Alabama House of Representatives District 95 is some 4.788% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 8 and deny them on that basis.

9. With respect to the allegations of paragraph 9, the State Election Officials admit that the total population of Alabama House of Representatives District 95 is some 4.788% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 9 and deny them on that basis.

10. With respect to the allegations of paragraph 10, the State Election Officials admit that the total population of Alabama Senate District 22 is some 4.127% above the ideal population of an Alabama Senate District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 10 and deny them on that basis.

11. With respect to the allegations of paragraph 11, the State Election Officials admit that the total population of Alabama Senate District 7 is some 4.409% above the ideal population of an Alabama Senate District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 11 and deny them on that basis.

12. With respect to the allegations of paragraph 12, the State Election Officials admit that the total population of Alabama Senate District 8 is some 4.913% above the ideal population

of an Alabama Senate District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 12 and deny them on that basis.

13. With respect to the allegations of paragraph 13, the State Election Officials admit that the total population of Alabama Senate District 16 is some 4.010% above the ideal population of an Alabama Senate District and Alabama House of Representatives District 47 is some 4.904% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 13 and deny them on that basis.

14. With respect to the allegations of paragraph 14, the State Election Officials admit that the total population of Alabama House of Representatives District 24 is some 4.425% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 14 and deny them on that basis.

15. With respect to the allegations of paragraph 15, the State Election Officials admit that the total population of Alabama House of Representatives District 41 is some 4.836% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 15 and deny them on that basis.

16. With respect to the allegations of paragraph 16, the State Election Officials admit that the total population of Alabama Senate District 2 is some 4.625% above the ideal population of an Alabama Senate District. The State Election Officials lack sufficient knowledge or

information to form a belief as to the truth of the remaining allegations of Paragraph 16 and deny them on that basis.

17. With respect to the allegations of paragraph 17, the State Election Officials admit that the total population of Alabama House of Representatives District 18 is some 4.496% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 17 and deny them on that basis.

18. With respect to the allegations of paragraph 18, the State Election Officials admit that the total population of Alabama House of Representatives District 15 is some 4.644% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 18 and deny them on that basis.

19. With respect to the allegations of paragraph 19, the State Election Officials admit that the total population of Alabama Senate District 14 is some 4.604% above the ideal population of an Alabama Senate District and the total population of Alabama House of Representatives District 49 is some 4.292% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 19 and deny them on that basis.

20. With respect to the allegations of paragraph 20, the State Election Officials admit that the total population of Alabama House of Representatives District 51 is some 4.467% above the ideal population of an Alabama House of Representatives District. The State Election

Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 20 and deny them on that basis.

21. With respect to the allegations of paragraph 21, the State Election Officials admit that the total population of Alabama House of Representatives District 43 is some 4.944% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 21 and deny them on that basis.

22. With respect to the allegations of paragraph 22, the State Election Officials admit that the total population of Alabama House of Representatives District 46 is some 4.753% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 22 and deny them on that basis.

23. With respect to the allegations of paragraph 23, the State Election Officials admit that the total population of Alabama House of Representatives District 1 is some 4.562% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 23 and deny them on that basis.

24. With respect to the allegations of paragraph 24, the State Election Officials admit that the total population of Alabama Senate District 9 is some 4.861% above the ideal population of an Alabama Senate District and the total population of Alabama House of Representatives District 27 is some 4.352% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 24 and deny them on that basis.

25. With respect to the allegations of paragraph 25, the State Election Officials admit that the total population of Alabama House of Representatives District 79 is some 4.385% above the ideal population of an Alabama House of Representatives District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 25 and deny them on that basis.

26. With respect to the allegations of paragraph 26, the State Election Officials admit that the total population of Alabama Senate District 3 is some 4.887% above the ideal population of an Alabama Senate District. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations of Paragraph 26 and deny them on that basis.

27. The State Election Officials admit that Adrian Johns is a resident of Baldwin County and the Southern District of Alabama and is the Probate Judge of Baldwin County and deny the remaining allegations of paragraph 27. Full and complete relief can be awarded, if justified, without Probate Judge Johns or the other 66 Probate Judges as defendants.

28. The State Election Officials admit that Alfred Q. Booth is a resident of Autauga County and is the Probate Judge of Autauga County and deny the remaining allegations of paragraph 28. Full and complete relief can be awarded, if justified, without Probate Judge Booth or the other 66 Probate Judges as defendants.

29. The State Election Officials admit that Nancy O. Robertson is a resident of Barbour County and is the Probate Judge of Barbour County and deny the remaining allegations of paragraph 29. Full and complete relief can be awarded, if justified, without Probate Judge Robertson or the other 66 Probate Judges as defendants.

30. The State Election Officials admit that Jerry C. Pow is a resident of Bibb County and is the Probate Judge of Bibb County and deny the remaining allegations of paragraph 30. Full and complete relief can be awarded, if justified, without Probate Judge Pow or the other 66 Probate Judges as defendants.

31. The State Election Officials admit that Royce King is a resident of Blount County and is the Probate Judge of Blount County and deny the remaining allegations of paragraph 31. Full and complete relief can be awarded, if justified, without Probate Judge King or the other 66 Probate Judges as defendants.

32. The State Election Officials admit that Johnny H. Williamson is a resident of Bullock County and is the Probate Judge of Bullock County and deny the remaining allegations of paragraph 32. Full and complete relief can be awarded, if justified, without Probate Judge Williamson or the other 66 Probate Judges as defendants.

33. The State Election Officials admit that Steve Norman is a resident of Butler County and is the Probate Judge of Butler County and deny the remaining allegations of paragraph 33. Full and complete relief can be awarded, if justified, without Probate Judge Norman or the other 66 Probate Judges as defendants.

34. The State Election Officials admit that Arthur C. Murray is a resident of Calhoun County and is the Probate Judge of Calhoun County and deny the remaining allegations of paragraph 34. Full and complete relief can be awarded, if justified, without Probate Judge Murray or the other 66 Probate Judges as defendants.

35. The State Election Officials admit that John T. Crowder is a resident of Chambers County and is the Probate Judge of Chambers County and deny the remaining allegations of

paragraph 35. Full and complete relief can be awarded, if justified, without Probate Judge Crowder or the other 66 Probate Judges as defendants.

36. The State Election Officials admit that J. Kirk Day is a resident of Cherokee County and is the Probate Judge of Cherokee County and deny the remaining allegations of paragraph 36. Full and complete relief can be awarded, if justified, without Probate Judge Day or the other 66 Probate Judges as defendants.

37. The State Election Officials admit that Robert M. Martin is a resident of Chilton County and is the Probate Judge of Chilton County and deny the remaining allegations of paragraph 37. Full and complete relief can be awarded, if justified, without Probate Judge Martin or the other 66 Probate Judges as defendants.

38. The State Election Officials admit that Michael W. Armistead is a resident of Choctaw County and is the Probate Judge of Choctaw County and deny the remaining allegations of paragraph 38. Full and complete relief can be awarded, if justified, without Probate Judge Armistead or the other 66 Probate Judges as defendants.

39. The State Election Officials admit that Becky Presnall is a resident of Clarke County and is the Probate Judge of Clarke County and deny the remaining allegations of paragraph 39. Full and complete relief can be awarded, if justified, without Probate Judge Presnall or the other 66 Probate Judges as defendants.

40. The State Election Officials admit that George M. Ingram is a resident of Clay County and is the Probate Judge of Clay County and deny the remaining allegations of paragraph 40. Full and complete relief can be awarded, if justified, without Probate Judge Ingram or the other 66 Probate Judges as defendants.

41. The State Election Officials admit that Ryan Robertson is a resident of Cleburne County and is the Probate Judge of Cleburne County and deny the remaining allegations of paragraph 41. Full and complete relief can be awarded, if justified, without Probate Judge Robertson or the other 66 Probate Judges as defendants.

42. The State Election Officials admit that William O. Gammill is a resident of Coffee County and is the Probate Judge of Coffee County and deny the remaining allegations of paragraph 42. Full and complete relief can be awarded, if justified, without Probate Judge Gammill or the other 66 Probate Judges as defendants.

43. The State Election Officials admit that W. Thomas Crosslin is a resident of Colbert County and is the Probate Judge of Colbert County and deny the remaining allegations of paragraph 43. Full and complete relief can be awarded, if justified, without Probate Judge Crosslin or the other 66 Probate Judges as defendants.

44. The State Election Officials admit that Rogene Booker is a resident of Coneuh County and is the Probate Judge of Coneuh County and deny the remaining allegations of paragraph 44. Full and complete relief can be awarded, if justified, without Probate Judge Booker or the other 66 Probate Judges as defendants.

45. The State Election Officials admit that Terry Mitchell is a resident of Coosa County and is the Probate Judge of Coosa County and deny the remaining allegations of paragraph 45. Full and complete relief can be awarded, if justified, without Probate Judge Mitchell or the other 66 Probate Judges as defendants.

46. The State Election Officials admit that Sherrie R. Phillips is a resident of Covington County and is the Probate Judge of Covington County and deny the remaining

allegations of paragraph 46. Full and complete relief can be awarded, if justified, without Probate Judge Phillips or the other 66 Probate Judges as defendants.

47. The State Election Officials admit that James V. Perdue is a resident of Crenshaw County and is the Probate Judge of Crenshaw County and deny the remaining allegations of paragraph 47. Full and complete relief can be awarded, if justified, without Probate Judge Perdue or the other 66 Probate Judges as defendants.

48. The State Election Officials admit that Betty Brewer is a resident of Cullman County and is the Probate Judge of Cullman County and deny the remaining allegations of paragraph 48. Full and complete relief can be awarded, if justified, without Probate Judge Brewer or the other 66 Probate Judges as defendants.

49. The State Election Officials admit that Eunice Hagler is a resident of Dale County and is the Probate Judge of Dale County and deny the remaining allegations of paragraph 49. Full and complete relief can be awarded, if justified, without Probate Judge Hagler or the other 66 Probate Judges as defendants.

50. The State Election Officials admit that John W. Jones, Jr. is a resident of Dallas County and is the Probate Judge of Dallas County and deny the remaining allegations of paragraph 50. Full and complete relief can be awarded, if justified, without Probate Judge Jones or the other 66 Probate Judges as defendants.

51. The State Election Officials admit that Ronnie Osborn is a resident of DeKalb County and is the Probate Judge of DeKalb County and deny the remaining allegations of paragraph 51. Full and complete relief can be awarded, if justified, without Probate Judge Osborn or the other 66 Probate Judges as defendants.

52. The State Election Officials admit that Jimmy Stubbs is a resident of Elmore County and is the Probate Judge of Elmore County and deny the remaining allegations of paragraph 52. Full and complete relief can be awarded, if justified, without Probate Judge Stubbs or the other 66 Probate Judges as defendants.

53. The State Election Officials admit that Rachel Agerton is a resident of Escambia County and is the Probate Judge of Escambia County and deny the remaining allegations of paragraph 53. Full and complete relief can be awarded, if justified, without Probate Judge Agerton or the other 66 Probate Judges as defendants.

54. The State Election Officials admit that Bobby M. Junkins is a resident of Etowah County and is the Probate Judge of Etowah County and deny the remaining allegations of paragraph 54. Full and complete relief can be awarded, if justified, without Probate Judge Junkins or the other 66 Probate Judges as defendants.

55. The State Election Officials admit that William Oswalt is a resident of Fayette County and is the Probate Judge of Fayette County and deny the remaining allegations of paragraph 55. Full and complete relief can be awarded, if justified, without Probate Judge Oswalt or the other 66 Probate Judges as defendants.

56. The State Election Officials admit that Mike Green is a resident of Franklin County and is the Probate Judge of Franklin County and deny the remaining allegations of paragraph 56. Full and complete relief can be awarded, if justified, without Probate Judge Green or the other 66 Probate Judges as defendants.

57. The State Election Officials admit that Harry O. Adkison is a resident of Geneva County and is the Probate Judge of Geneva County and deny the remaining allegations of

paragraph 57. Full and complete relief can be awarded, if justified, without Probate Judge Adkison or the other 66 Probate Judges as defendants.

58. The State Election Officials admit that Earlean Isaac is a resident of Greene County and is the Probate Judge of Greene County and deny the remaining allegations of paragraph 58. Full and complete relief can be awarded, if justified, without Probate Judge Isaac or the other 66 Probate Judges as defendants.

59. The State Election Officials admit that Leland Avery is a resident of Hale County and is the Probate Judge of Hale County and deny the remaining allegations of paragraph 59. Full and complete relief can be awarded, if justified, without Probate Judge Avery or the other 66 Probate Judges as defendants.

60. The State Election Officials admit that Lamar Turner is a resident of Henry County and is the Probate Judge of Henry County and deny the remaining allegations of paragraph 60. Full and complete relief can be awarded, if justified, without Probate Judge Turner or the other 66 Probate Judges as defendants.

61. The State Election Officials admit that Luke Cooley is a resident of Houston County and is the Probate Judge of Houston County and deny the remaining allegations of paragraph 61. Full and complete relief can be awarded, if justified, without Probate Judge Cooley or the other 66 Probate Judges as defendants.

62. The State Election Officials admit that Floyd Hambrick, Jr. is a resident of Jackson County and is the Probate Judge of Jackson County and deny the remaining allegations of paragraph 62. Full and complete relief can be awarded, if justified, without Probate Judge Hambrick or the other 66 Probate Judges as defendants.

63. The State Election Officials admit that Mark Gaines is a resident of Jefferson County and is the Probate Judge of Jefferson County and deny the remaining allegations of paragraph 63. Full and complete relief can be awarded, if justified, without Probate Judge Gaines or the other 66 Probate Judges as defendants.

64. The State Election Officials admit that Johnny Rogers is a resident of Lamar County and is the Probate Judge of Lamar County and deny the remaining allegations of paragraph 64. Full and complete relief can be awarded, if justified, without Probate Judge Rogers or the other 66 Probate Judges as defendants.

65. The State Election Officials admit that Dewey D. Mitchell, III is a resident of Lauderdale County and is the Probate Judge of Lauderdale County and deny the remaining allegations of paragraph 65. Full and complete relief can be awarded, if justified, without Probate Judge Mitchell or the other 66 Probate Judges as defendants.

66. The State Election Officials admit that R. I. Proctor is a resident of Lawrence County and is the Probate Judge of Lawrence County and deny the remaining allegations of paragraph 66. Full and complete relief can be awarded, if justified, without Probate Judge Proctor or the other 66 Probate Judges as defendants.

67. The State Election Officials admit that Bill English is a resident of Lee County and is the Probate Judge of Lee County and deny the remaining allegations of paragraph 67. Full and complete relief can be awarded, if justified, without Probate Judge English or the other 66 Probate Judges as defendants.

68. The State Election Officials admit that Michael L. Davis is a resident of Limestone County and is the Probate Judge of Limestone County and deny the remaining

allegations of paragraph 68. Full and complete relief can be awarded, if justified, without Probate Judge Davis or the other 66 Probate Judges as defendants.

69. The State Election Officials admit that John E. Hulett is a resident of Lowndes County and is the Probate Judge of Lowndes County and deny the remaining allegations of paragraph 69. Full and complete relief can be awarded, if justified, without Probate Judge Hulett or the other 66 Probate Judges as defendants.

70. The State Election Officials admit that Alfonza Menefee is a resident of Macon County and is the Probate Judge of Macon County and deny the remaining allegations of paragraph 70. Full and complete relief can be awarded, if justified, without Probate Judge Menefee or the other 66 Probate Judges as defendants.

71. The State Election Officials admit that Tommy Ragland is a resident of Madison County and is the Probate Judge of Madison County and deny the remaining allegations of paragraph 71. Full and complete relief can be awarded, if justified, without Probate Judge Ragland or the other 66 Probate Judges as defendants.

72. The State Election Officials admit that Cindy D. Neilson is a resident of Marengo County and is the Probate Judge of Marengo County and deny the remaining allegations of paragraph 72. Full and complete relief can be awarded, if justified, without Probate Judge Neilson or the other 66 Probate Judges as defendants.

73. The State Election Officials admit that Annette Webb Haney is a resident of Marion County and is the Probate Judge of Marion County and deny the remaining allegations of paragraph 73. Full and complete relief can be awarded, if justified, without Probate Judge Haney or the other 66 Probate Judges as defendants.

74. The State Election Officials admit that Tim Mitchell is a resident of Marshall County and is the Probate Judge of Marshall County and deny the remaining allegations of paragraph 74. Full and complete relief can be awarded, if justified, without Probate Judge Mitchell or the other 66 Probate Judges as defendants.

75. The State Election Officials admit that Don Davis is a resident of Mobile County and is the Probate Judge of Mobile County and deny the remaining allegations of paragraph 75. Full and complete relief can be awarded, if justified, without Probate Judge Davis or the other 66 Probate Judges as defendants.

76. The State Election Officials admit that Otha Lee Biggs is a resident of Monroe County and is the Probate Judge of Monroe County and deny the remaining allegations of paragraph 76. Full and complete relief can be awarded, if justified, without Probate Judge Biggs or the other 66 Probate Judges as defendants.

77. The State Election Officials admit that Reese McKinney, Jr. is a resident of Montgomery County and is the Probate Judge of Montgomery County and deny the remaining allegations of paragraph 77. Full and complete relief can be awarded, if justified, without Probate Judge McKinney or the other 66 Probate Judges as defendants.

78. The State Election Officials admit that Bobby Day is a resident of Morgan County and is the Probate Judge of Morgan County and deny the remaining allegations of paragraph 78. Full and complete relief can be awarded, if justified, without Probate Judge Day or the other 66 Probate Judges as defendants.

79. The State Election Officials admit that Donald Cook is a resident of Perry County and is the Probate Judge of Perry County and deny the remaining allegations of paragraph 79.

Full and complete relief can be awarded, if justified, without Probate Judge Cook or the other 66 Probate Judges as defendants.

80. The State Election Officials admit that Roy Kelly is a resident of Pickens County and is the Probate Judge of Pickens County and deny the remaining allegations of paragraph 80. Full and complete relief can be awarded, if justified, without Probate Judge Kelly or the other 66 Probate Judges as defendants.

81. The State Election Officials admit that William C. Stone is a resident of Pike County and is the Probate Judge of Pike County and deny the remaining allegations of paragraph 81. Full and complete relief can be awarded, if justified, without Probate Judge Stone or the other 66 Probate Judges as defendants.

82. The State Election Officials admit that George Diamond is a resident of Randolph County and is the Probate Judge of Randolph County and deny the remaining allegations of paragraph 82. Full and complete relief can be awarded, if justified, without Probate Judge Diamond or the other 66 Probate Judges as defendants.

83. The State Election Officials admit that Albert Howard is a resident of Russell County and is the Probate Judge of Russell County and deny the remaining allegations of paragraph 83. Full and complete relief can be awarded, if justified, without Probate Judge Howard or the other 66 Probate Judges as defendants.

84. The State Election Officials admit that Wallace Wyatt, Jr. is a resident of St. Clair County and is the Probate Judge of St. Clair County and deny the remaining allegations of paragraph 84. Full and complete relief can be awarded, if justified, without Probate Judge Wyatt or the other 66 Probate Judges as defendants.

85. The State Election Officials admit that Patricia Yeager Fuhrmeister is a resident of Shelby County and is the Probate Judge of Shelby County and deny the remaining allegations of paragraph 85. Full and complete relief can be awarded, if justified, without Probate Judge Fuhrmeister or the other 66 Probate Judges as defendants.

86. The State Election Officials admit that Willie Pearl Watkins-Rice is a resident of Sumter County and is the Probate Judge of Sumter County and deny the remaining allegations of paragraph 86. Full and complete relief can be awarded, if justified, without Probate Judge Watkins-Rice or the other 66 Probate Judges as defendants.

87. The State Election Officials admit that Billy L. Atkinson is a resident of Talladega County and is the Probate Judge of Talladega County and deny the remaining allegations of paragraph 87. Full and complete relief can be awarded, if justified, without Probate Judge Atkinson or the other 66 Probate Judges as defendants.

88. The State Election Officials admit that Gloria T. Sinclair is a resident of Tallapoosa County and is the Probate Judge of Tallapoosa County and deny the remaining allegations of paragraph 88. Full and complete relief can be awarded, if justified, without Probate Judge Sinclair or the other 66 Probate Judges as defendants.

89. The State Election Officials admit that W. Hardy McCollum is a resident of Tuscaloosa County and is the Probate Judge of Tuscaloosa County and deny the remaining allegations of paragraph 89. Full and complete relief can be awarded, if justified, without Probate Judge McCollum or the other 66 Probate Judges as defendants.

90. The State Election Officials admit that Rick Allison is a resident of Walker County and is the Probate Judge of Walker County and deny the remaining allegations of

paragraph 90. Full and complete relief can be awarded, if justified, without Probate Judge Allison or the other 66 Probate Judges as defendants.

91. The State Election Officials admit that John H. Armstrong is a resident of Washington County and is the Probate Judge of Washington County and deny the remaining allegations of paragraph 91. Full and complete relief can be awarded, if justified, without Probate Judge Armstrong or the other 66 Probate Judges as defendants.

92. The State Election Officials admit that Jerry Boggan is a resident of Wilcox County and is the Probate Judge of Wilcox County and deny the remaining allegations of paragraph 92. Full and complete relief can be awarded, if justified, without Probate Judge Boggan or the other 66 Probate Judges as defendants.

93. The State Election Officials admit that CaSandra Horsley is a resident of Winston County and is the Probate Judge of Winston County and deny the remaining allegations of paragraph 93. Full and complete relief can be awarded, if justified, without Probate Judge Horsley or the other 66 Probate Judges as defendants.

94. With respect to the allegations of paragraph 94, the State Election Officials admit that Nancy Worley is a resident of Alabama and is the Secretary of State of Alabama and the State's chief elections official, *see* Ala. Code § 17-1-8(a) (Supp. 2004); Ala. Code § 17-4-250(a) (1995). The remaining allegations of paragraph 94 do not require a response.

95. The State Election Officials deny the allegations of paragraph 95.

96. With respect to the allegations of paragraph 96, the State Election Officials admit that, after the 2000 Census, the Alabama State Senate and State House of Representatives redrew their legislative districts in order to comply with constitutional "one person, one vote" standards,

deny the remaining allegations, and state further that a challenge to the redrawn plans was rejected in *Montiel v. Davis*, 215 F. Supp. 2d 1279 (S.D. Ala. 2002) (three-judge court).

97. The State Election Officials admit the allegations of paragraph 97.

98. The State Election Officials deny the allegations of paragraph 98.

99. With respect to the allegations of paragraph 99, the State Election Officials admit that the results of the 2000 Census indicated that the population of a number of counties, including Baldwin, Autauga, Elmore, Lee, Shelby, Blount, St. Clair, Cherokee, Chilton, Limestone, Morgan, and Marshall, had grown and deny the remaining allegations.

100. With respect to the allegations of paragraph 100, the State Election Officials admit that the results of the 2000 Census indicated that the population of one or more of the so-called “black belt” counties declined and deny the remaining allegations.

101. With respect to the allegations of paragraph 101, the State Election Officials admit that, between one Census and the next, the population of a jurisdiction and its distribution frequently change to such a degree that the jurisdiction must reapportion and redraw the districts of its elected representatives in order to comply with constitutional one-person-one-vote standards and deny the remaining allegations. The State Election Officials further deny any allegation, express or implied that, when a jurisdiction reapportions and redraws its districts, it must act to anticipate any perceived trends in the distribution of the jurisdiction’s population.

102. With respect to the allegations of paragraph 102, the State Election Officials admit that, due to changes in the State’s population and its distribution between the 1990 and 2000 decennial censuses, the State of Alabama was required to redraw and reapportion its legislative districts in order to comply with one-person-one-vote standards and deny the remaining allegations. The State Election Officials state further that a three-judge court sitting in

this district rejected a one-person-one-vote challenge to the State's legislative districting plans in *Montiel v. Davis*, 215 F. Supp. 2d 1279 (S.D. Ala. 2002) (three-judge court).

103. With respect to the allegations of paragraph 103, the State Election Officials admit that, during a special session in 2001, the Alabama Legislature passed and then-Governor Siegelman signed into law new redistricting plans for the Alabama Senate and the Alabama House of Representatives, deny the remaining allegations, and state further that the new plans, including the maps and demographic data, are matters of public record that speak for themselves.

104. The State Election Officials deny the allegations of paragraph 104.

105. The State Election Officials deny the allegations of paragraph 105.

106. With respect to the allegations of paragraph 106, the State Election Officials admit that it is technologically possible to draw legislative districts that have smaller population deviations and deny the remaining allegations. The State Election Officials further deny any allegation, express or implied, that State legislative plans are constitutionally required to be drawn to the same standard as congressional redistricting plans or that the plans that were drawn, precleared, and upheld by the three-judge court in *Montiel v. Davis* violate the constitutional standards applicable to legislative districting plans.

107. The State Election Officials deny the allegations of paragraph 107.

108. The State Election Officials admit that the overall population deviation of the 2001 Senate redistricting plan is some 9.728%, and admit the remaining allegations of paragraph 108.

109. The State Election Officials admit that the overall population deviation of the 2001 House of Representatives redistricting plan is some 9.931%, and admit the remaining allegations of paragraph 109.

110. With respect to the allegations of paragraph 110, the State Election Officials admit that alternate plans with population deviations of varying proportions and varying degrees of conformity with generally accepted neutral redistricting factors could have been and were drawn and submitted for consideration and deny the remaining allegations.

111. The State Election Officials deny the allegations of paragraph 111.

112. The State Election Officials deny the allegations of paragraph 112.

113. The State Election Officials deny the allegations of paragraph 113.

114. The State Election Officials deny the allegations of paragraph 114.

115. The State Election Officials deny the allegations of paragraph 115.

116. The State Election Officials deny the allegations of paragraph 116.

117. The State Election Officials deny the allegations of paragraph 117.

118. The State Election Officials deny the allegations of paragraph 118.

119. The State Election Officials deny the allegations of paragraph 119.

120. The State Election Officials deny the allegations of paragraph 120.

121. With respect to the allegations of paragraph 121, the State Election Officials admit the allegations in the first sentence and deny the remaining allegations.

122. The State Election Officials incorporate their responses to the allegations of paragraphs 1–121 by reference as if fully set forth again herein.

123. With respect to the allegations of paragraph 123, the State Election Officials admit that Plaintiffs have correctly quoted a portion of Article IV, § 2 of the United States Constitution. The remaining allegations of paragraph 123 state legal conclusions as to which no response is required. To the extent a response is required, the State Election Officials admit that the right to vote in state legislative elections is a fundamental right guaranteed to United States

citizens in the several States pursuant to the Equal Protection Clause of § 1 of the Fourteenth Amendment to the United States Constitution, but deny that the right to vote in state legislative elections is a fundamental right pursuant to Article IV, § 2 of the United States Constitution. Because Plaintiffs do not specify which “other provisions of the United States Constitution” they allege support their contention that “the right to vote is a fundamental right guaranteed to U.S. citizens,” the State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the allegation that “the right to vote is a fundamental right guaranteed to U.S. citizens” pursuant to “other provisions of the United States Constitution,” except with respect to the Equal Protection Clause of the Fourteenth Amendment.

124. With respect to the allegations of paragraph 124, the State Election Officials admit that Plaintiffs have correctly quoted section 1 of the Fourteenth Amendment to the United States Constitution.

125. Paragraph 125 pleads a legal conclusion as to which no response is required. To the extent a response is required, the State Election Officials deny the allegations of paragraph 125.

126. With respect to the allegations of paragraph 126, the State Election Officials admit that Plaintiffs have correctly quoted a portion of the current version of 42 U.S.C. § 1983.

127. The State Election Officials admit the allegations of paragraph 127.

128. The State Election Officials lack sufficient knowledge or information to form a belief as to the truth of the allegations of Paragraph 128 and deny them on that basis.

129. The State Election Officials deny the allegations of paragraph 129.

130. The State Election Officials deny the allegations of paragraph 130.

131. The State Election Officials deny the allegations of paragraph 131.

132. The State Election Officials incorporate their responses to paragraphs 1–131 by reference as if fully set forth again herein.

133. The State Election Officials deny the allegations of paragraph 133.

134. The State Election Officials deny the allegations of paragraph 134.

135. The State Election Officials deny the allegations of paragraph 135.

136. The State Election Officials deny the allegations of paragraph 136.

137. The State Election Officials deny the allegations of paragraph 137.

138. The State Election Officials deny the allegations of paragraph 138.

139. The State Election Officials deny the allegations of paragraph 139.

140. The State Election Officials deny the allegations of paragraph 140.

141. The State Election Officials incorporate their responses to the allegations in paragraphs 1–140 by reference as if fully set forth again herein.

142. In response to the allegations of paragraph 142, the State Election Officials admit that the protections provided by the First Amendment include the right of freedom of speech and of association and deny the remaining allegations.

143. The State Election Officials deny the allegations of paragraph 143.

144. The State Election Officials deny the allegations of paragraph 144.

The State Election Officials deny that the Plaintiffs are entitled to the relief requested on pages 47 and 48 of their First Amended Complaint.

GENERAL DEFENSES

FIRST DEFENSE

Plaintiffs' claims are barred by res judicata/claim preclusion. *See Montiel v. Davis*, 215 F. Supp. 2d 1279 (S.D. Ala. 2002) (three-judge court).

SECOND DEFENSE

One or more of Plaintiffs' claims are barred by collateral estoppel/issue preclusion. *See Montiel v. Davis*, 215 F. Supp. 2d 1279 (S.D. Ala. 2002) (three-judge court).

THIRD DEFENSE

Plaintiffs' one-person-one-vote claim lacks merit. *See Montiel v. Davis*, 215 F. Supp. 2d 1279 (S.D. Ala. 2002) (three-judge court).

FOURTH DEFENSE

Plaintiffs have failed to state a claim that constitutional one-person-one-vote standards were violated as to which relief may be granted.

FIFTH DEFENSE

Plaintiffs have failed to state a claim of political gerrymandering as to which relief may be granted.

SIXTH DEFENSE

Assuming, without conceding, that Plaintiffs have stated a cognizable claim of political gerrymandering, that claim lacks merit.

SEVENTH DEFENSE

Plaintiffs have failed to state a claim that their First Amendment rights of free speech and free association were violated as to which relief may be granted.

EIGHTH DEFENSE

Assuming, without conceding, that Plaintiffs have stated a cognizable claim that their First Amendment rights of free speech and free association were violated, that claim lacks merit.

NINTH DEFENSE

The State's interest in complying with Section 5 of the Voting Rights Act is a compelling State interest.

TENTH DEFENSE

The Legislature's use of a population deviation of $\pm 5\%$ was not unconstitutional.

ELEVENTH DEFENSE

The State's interest in retaining experienced incumbent legislators is a valid, neutral redistricting principle.

TWELFTH DEFENSE

The redistricting criteria set for the Guidelines promulgated by the Legislature's Permanent Joint Legislative Committee on Reapportionment are valid, neutral redistricting principles.

THIRTEENTH DEFENSE

The Probate Judges are not necessary defendants in that full and complete relief can be awarded, if justified, in their absence. They should be dismissed as parties defendant.

FOURTEENTH DEFENSE

The State Election Officials contest Plaintiffs' entitlement to attorneys' fees and expenses, and the amount thereof.

Respectfully submitted,

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BY:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of July, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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And I hereby certify that I have mailed by U.S. Postal Service the document to the following non CM/ECF participants:

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s/ John J. Park, Jr.

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