

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<i>vs.</i>	)	<b>Civil Action No.</b>
	)	
<b>STATE OF ALABAMA, and</b>	)	<b>2:06-cv-0392-WKW</b>
<b>BETH CHAPMAN, Alabama</b>	)	
<b>Secretary of State, in her official</b>	)	
<b>capacity,</b>	)	
	)	
<b>Defendants,</b>	)	
	)	
<b>ALABAMA PROBATE JUDGES</b>	)	
<b>ASSOCIATION,</b>	)	
	)	
<b>Amicus Curiae.</b>	)	

**RESPONSE OF ALABAMA PROBATE JUDGES  
ASSOCIATION TO COURT ORDER**

Comes Now Amicus Curiae Alabama Probate Judges Association, by and through counsel, and, in response to this Court’s order [Doc. No. 139] entered herein on February 14, 2008, offers the following comments on the Special Master’s Post Election Status Report [Doc. No. 140] filed herein on March 3, 2008:

1. The APJA maintains its position as previously stated to this Court that the Special Master should remain in place at least through the June 2008 primary elections. There are several reasons why the APJA takes this position even in the face of the request of the Special Master for his immediate discharge.

2. The recent Presidential Preference Primary Election held on February 5, 2008, was not a real test of the system's capacity to provide accurate voter lists for use by election officials at the precinct level. That test will only occur when an election is conducted for candidates running from districts. In the February 5, 2008, Presidential Preference Primary election, there were no candidates on the ballot running from districts.

3. The reason it is critical for the system to be tested in a situation involving an election of candidates running from districts has to do with the importance of each voter receiving a ballot containing the names of all of the candidates for whom that voter is entitled to vote and only those candidates for whom that voter is entitled to vote. In a voting precinct where election district lines geographically split that voting precinct, voters who live on one side of the election district line in that precinct will be entitled to receive a ballot which will be different from the ballot that voters who live on the other side of that election district line in that precinct are entitled to receive. Split precincts are a very common phenomenon in Alabama.

4. Unless the single, uniform, official, centralized, interactive, computerized statewide voter registration system that Alabama now has in place can reliably deliver accurate voter lists at the precinct level which designate which ballot style each voter must receive on election day in elections in which candidates are running from districts, Alabama's probate judges will be unable to conduct elections using that system because election officials will be unable to determine what ballot style to give each voter. Such a test is

necessary under the supervision of the Special Master to assure that the contractor has delivered the system ordered by the Special Master under this Court's supervision to assure Alabama's compliance with HAVA.

5. Further, there are a number of features of the single, uniform, official, centralized, interactive, computerized statewide voter registration system that have not yet been fully implemented in every county but which features should be implemented by the time of the June 2008 primary elections. These features such as the local redundancy feature (which has been and continues to be viewed as critical by the APJA) and the GIS feature will greatly enhance the ability of the probate judges as chief election officers in their respective counties to perform their statutory duties. The system should be tested with these features in full operational capacity.

6. Moreover, there are protocols for system security and access as well as for dealing with software issues that should be established so that roles and responsibilities can be designated throughout the system.

Wherefore premises considered, the Amicus Curiae Alabama Probate Judges Association requests that this Court order that the Special Master retain his duties and responsibilities in this matter at least through the June 2008 primary elections.

Respectfully submitted this 10th day of March, 2008.

/s Algert S. Agricola, Jr.  
Algert S. Agricola, Jr. (SJS No. AGR001)

Counsel for Amicus Curiae Alabama Probate  
Judges Association

OF COUNSEL:

**RYALS, PLUMMER, DONALDSON,  
AGRICOLA & SMITH, P.C.**  
60 Commerce Street, Suite 1400  
Montgomery, AL 36104  
(334) 834-5290 P  
(334) 834-5297 F  
[aagricola@rpdas.com](mailto:aagricola@rpdas.com)

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<i>vs.</i>	)	<b>Civil Action No.</b>
	)	
<b>STATE OF ALABAMA, and</b>	)	<b>2:06-cv-0392-WKW</b>
<b>BETH CHAPMAN, Alabama</b>	)	
<b>Secretary of State, in her official</b>	)	
<b>capacity,</b>	)	
	)	
<b>Defendants.</b>	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on March 10, 2008, 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:

Winfield J. Sinclair [wsinclair@ago.state.al.us](mailto:wsinclair@ago.state.al.us)  
Margaret L. Fleming [mfleming@ago.state.al.us](mailto:mfleming@ago.state.al.us)  
Misty S. Fairbanks [mfairbanks@ago.state.al.us](mailto:mfairbanks@ago.state.al.us)  
Christy A. McCormick [christy.mccormick@usdoj.gov](mailto:christy.mccormick@usdoj.gov)  
Donald Palmer [donald.palmer@usdoj.gov](mailto:donald.palmer@usdoj.gov)  
R. Randolph Neeley [rand.neeley@usdoj.gov](mailto:rand.neeley@usdoj.gov)  
Robert D. Popper [robert.popper@usdoj.gov](mailto:robert.popper@usdoj.gov)  
Dorman Walker [dwalker@balch.com](mailto:dwalker@balch.com)  
Frank C. Ellis [fellis7234@aol.com](mailto:fellis7234@aol.com)  
Edward Still [still@votelaw.com](mailto:still@votelaw.com)  
James H. Anderson [janderson@beersanderson.com](mailto:janderson@beersanderson.com)  
Shannon Holliday [holliday@copelandfranco.com](mailto:holliday@copelandfranco.com)

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

John K. Tanner  
U.S. Department of Justice  
Chief, Voting Section  
Civil Rights Division  
Room 7254-NWB  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530

Wan J. Kim  
U.S. Department of Justice  
Voting Section  
Civil Rights Division  
Room 7254-NWB  
950 Pennsylvania Avenue NW  
Washington, D.C. 20530

Respectfully submitted,

s/ Algert S. Agricola, Jr.  
Algert S. Agricola, Jr.  
**RYALS, PLUMMER, DONALDSON,  
AGRICOLA & SMITH, P.C.**  
60 Commerce Street, Suite 1400  
Montgomery, AL 36104  
(334) 834-5290 P  
(334) 834-5297 F  
[aagricola@rpdas.com](mailto:aagricola@rpdas.com)