

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action Number:
v.)	
)	2:06-CV-00392-WKW
STATE OF ALABAMA, <i>et al.</i> ,)	
)	
Defendants.)	

MOTION TO MODIFY EX PARTE COMMUNICATIONS ORDER

The State of Alabama hereby requests that this Court modify its *ex parte* communications order for the reasons set forth below:

1. On November 7, 2006, Beth Chapman was elected Secretary of State.
2. Shortly thereafter, the Special Master appointed Ms. Chapman to the HAVA Implementation Committee.
3. On or about January 15, 2007, Secretary-elect Beth Chapman will be sworn into office as Alabama’s Secretary of State.
4. The State has received no information to indicate that either the Special Master or Ms. Chapman intends for Ms. Chapman’s service on the HAVA Implementation Committee to discontinue once she assumes the Office of Secretary of State.
5. By statute, the Secretary of State is represented in all litigation, including this case, by the Office of the Attorney General.

6. Due to Ms. Chapman's membership on the HAVA Implementation Committee, counsel for the State views communications with Ms. Chapman as subject to the *ex parte* communications prohibition. *See* (Doc. 72).

7. To effect the orderly transition of representation of the Secretary of State in this case, it is necessary for the Attorney General and his staff (including duly-appointed Deputy Attorneys General) to be able to communicate directly with the Secretary-elect and her designated in-house counsel. Those communications will almost certainly require discussion of a substantive and confidential nature.

8. The need for the Attorney General and his staff (including duly-appointed Deputy Attorneys General) to communicate with Ms. Chapman and her designated in-house counsel will continue once Ms. Chapman is sworn in as Secretary of State.

9. In order for the Office of the Attorney General to represent Secretary of State Chapman, the Office must be able to communicate directly with Ms. Chapman and her designated in-house counsel in a manner that preserves attorney-client confidences and litigation strategies.

10. For these reasons, the State asks that the *ex parte* communications order be modified to allow communications between the Office of the Attorney General and Ms. Chapman, both now and once she assumes the Office of Secretary of State.

11. A courtesy copy of this Motion is being delivered to Ms. Chapman.

Respectfully submitted,

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BY:

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Assistant Attorney General

s/ Misty S. Fairbanks
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CERTIFICATE OF SERVICE

This is to certify that on the 4th day of January, 2007, a copy of the foregoing has been electronically filed with the Clerk of the Court using the CM/ECF system, which will electronically send a copy of the same to the following:

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