

ORIGINAL

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SEP 22 2003

LUT: Clerk
By: J. Dugg Deputy Clerk

SARA LARIOS, et al.,)
)
Plaintiffs,)
v.)
CATHY COX, in her official capacities)
as Secretary of the State of Georgia and)
Chair of the State Election Board,)
)
Defendant.)
_____)

CIVIL ACTION FILE
NO. 1:03-CV-0693

CAP

DEFENDANT'S INITIAL DISCLOSURES

(1) If the defendant is improperly identified, state defendant's correct identification and state whether defendant will accept service of an amended summons and complaint reflecting the information furnished in this disclosure response.

Response: Defendant does not contend that she is improperly identified.

(2) Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.

Response: Defendant does not contend there are any additional parties who are necessary to this action and there is no question as to misjoinder of parties.

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(3) Provide a detailed factual basis for the defense or defenses and any counterclaims or crossclaims asserted by defendant in the responsive pleading.

As Defendant understands the thrust of Plaintiffs' allegations, it is that the State's redistricting plans are unconstitutional because (1) their deviations are greater than may be permitted and (2) the plans are "politically discriminatory" against Republicans. Defendant denies these allegations.

First, with regard to the Congressional Plan, the deviations are *de minimis*. As a matter of law, these deviations do not state a claim of unconstitutional population deviation. To the extent that lower deviations could have been achieved by splitting blocks or otherwise, any such further reduction of the minimal deviations would not have served any purpose. To the contrary, even smaller deviations than the trivial ones that exist would have required artificial line drawing based on no meaningful basis.

With regard to the House and Senate plans, they were drawn with the principal objective of complying with population deviation requirements and the requirements of the Voting Rights Act. During the reapportionment process, it was the understanding of the State and legislators, and continues to be Defendant's understanding, that population deviations within a total of $\pm 10\%$ satisfy the constitutional requirement for these plans. In each and every instance, those requirements were satisfied. No illegal, impermissible purpose had anything to do with the existence of specified deviations within the $\pm 10\%$ range.

Furthermore, with regard to the Plaintiffs' allegation of political discrimination, Defendant denies that that occurred in the sense contemplated by the law. While all persons involved in the redistricting, whether Democrats or Republicans, sought to advance their party's interest, what has been described as "effective" political discrimination does not exist under the facts extant in Georgia. Republicans have abundant political access and strength in Georgia overall and with regard to the redistricting plans at issue specifically.

(4) Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which defendant contends are applicable to this action.

Response: Georgia v. Ashcroft, 123 S.Ct. 2498 (2003); Hunt v. Cromartie, 526 U.S. 541 (1999); Easley v. Cromartie, 532 U.S. 234 (2001); Abrams v. Johnson, 521 U.S. 74 (1997); Bush v. Vera, 517 U.S. 952 (1996); United States v. Hays, 515 U.S. 737 (1995); Davis v. Bandemer, 478 U.S. 109 (1986); Brown v. Thompson, 462 U.S. 835 (1983); Karcher v. Daggett, 462 U.S. 725 (1983); Gaffney v. Cummings, 412 U.S. 735 (1973); White v. Regester, 412 U.S. 755 (1973); Forston v. Dorsey, 379 U.S. 433 (1965).

(5) Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to the disputed facts alleged with particularity in the pleadings, identifying the subjects of information. (Attach witness list to Initial Disclosures as Attachment A.)

(6) Provide the name of any person who may be used at trial to present evidence under the Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in F.R.Civ.P. 26(a)(2)(B), provide a separate written report satisfying the provision of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B.)

Response: The identification of experts is controlled by this Court's Scheduling Order of August 29, 2003.

(7) Provide a copy of, or a description by category and location of, all documents, data compilations, and tangible things in your possession, custody or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Responses to Mandatory Disclosures as Attachment C).

(8) In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying as under F.R.Civ.P. 34. (Attach any copies and descriptions to Responses to Mandatory Disclosures as Exhibit D.)

Response: Defendant has no claim for damages in this case, other than

costs that may be assessed in favor of a prevailing party.

(9) If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability.

Response: The Defendant does not contend that any person or entity is liable in this action.

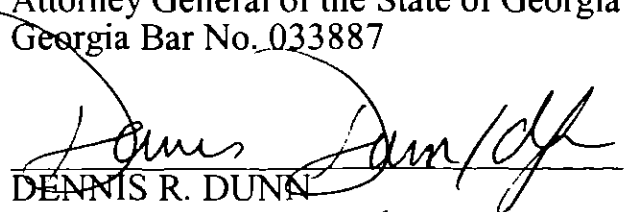
(10) Attach for inspection and copying as under F.R.Civ.P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment. (Attach copy of insurance agreement to Initial Disclosures as Attachment E.)

Response: None.


Respectfully submitted,

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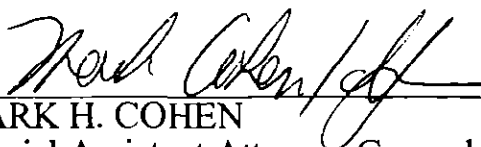

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Local Rule 7.1D Certification

By signature below, counsel certifies that the foregoing document was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1B.



DAVID F. WALBERT

ATTACHMENT A

DEFENDANT'S WITNESS LIST

The following individuals may have particularly extensive knowledge regarding the matters in this case. Defendant reserves the right to supplement this list as may be appropriate in light of Plaintiffs' witnesses.

1. Linda Meggers

Anticipated subjects of information: Ms. Meggers is expected to have knowledge of the makeup of the redistricting plans at issue. Ms. Meggers also has extensive knowledge concerning the history of Georgia reapportionments from the 1970's to present.

2. Robert Brown

Anticipated subjects of information: Senator Brown is anticipated to have particular knowledge regarding the Senate redistricting plan, and he is also knowledgeable about the history of redistricting in Georgia from the 1990's to present.

ATTACHMENT B

DEFENDANT'S LIST OF EXPERT WITNESSES

Defendant has not retained an expert witnesses at this time, but will supplement this response as required by the Court's August 29, 2003 scheduling order as developments warrant.

ATTACHMENT C

DEFENDANT'S DOCUMENT LIST

Defendant reserves the right to supplement this list as may be appropriate in light of Plaintiffs' witnesses.

1. Various redistricting maps, all of which Plaintiffs' counsel already have.
2. Various demographic information regarding the redistricting plans, all of which Plaintiffs' counsel already have.

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within and foregoing **Initial Disclosures**, prior to filing the same, by depositing a copy of the same in the United States Mail in an appropriately addressed envelope with adequate postage thereon and addressed as follows:

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Washington, DC 20036

This 22 day of September, 2003.



David F. Walbert