

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

PEOPLE FIRST OF ALABAMA, et al.,

Plaintiffs,

v.

JOHN MERRILL, et al.,

Defendants.

Case No.: 2:20-cv-00619-AKK

JOINT MOTION FOR ENTRY OF CONSENT ORDER

Plaintiffs People First of Alabama, Eric Peebles, Howard Porter, Jr., Annie Carolyn Thompson, Greater Birmingham Ministries, the Alabama State Conference of the NAACP, Black Voters Matter Capacity Building Institute, Teresa Bettis, Sheryl Threadgill-Matthews, and Gregory Bentley (collectively, “Plaintiffs”) and Defendants Jacqueline Anderson-Smith, Karen Dunn Burks, Sherri Friday, and James Naftel II, in their official capacities as the Circuit Clerk and Probate Judges of Jefferson County, Alabama (collectively, “Jefferson County Defendants”), by and through their counsel, jointly move this Court to enter the proposed Consent Order attached hereto as **Exhibit A**.

Plaintiffs and Jefferson County Defendants are collectively referred to herein as “the Parties.”

After engaging in good faith discussions, by and through their counsel, the Parties have agreed to settle the litigation, contingent upon Court approval, according to the terms set out therein and in the proposed Consent Order.

In support of this motion, the Parties stipulate to the following:

1. The United States is in the midst of a public health emergency due to the exponential spread of COVID-19, the respiratory disease caused by the novel coronavirus SARS-CoV-2. This public health emergency has deeply affected Alabama and is likely to continue to do so throughout the summer and fall of 2020, if not longer. COVID-19 has a particularly devastating effect on Black individuals and communities with higher rates of serious illness and death than other groups.

2. As a result of, COVID-19 the Centers for Disease Control and Prevention (“CDC”) recommends that election officials encourage as many voters as possible to use “voting methods that minimize direct contact and reduce crowd size at polling locations.”¹ The CDC has urged election officials to offer “alternatives to in-person voting,” to take any “feasible options for reducing the number of voters who congregate indoors in polling locations at the same time,” and to offer “drive-up voting for eligible voters,” including offering “curbside voting for sick voters” or

¹ Ctrs. for Disease Control & Prevention, *Considerations for Election Polling Locations and Voters: Interim guidance to prevent spread of coronavirus disease 2019 (COVID-19)*, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

to any voters with COVID-19 like symptoms in order to “minimize exposure between poll workers and voters.”²

3. The Plaintiffs filed their Amended Complaint (Doc. 75) in this action against, *inter alia*, the Jefferson County Defendants, on July 5, 2020, seeking injunctive and declaratory relief against the Challenged Provisions. Plaintiffs allege that, as applied in the COVID-19 crisis or on their face, the Challenged Provisions violate the First, Fourteenth, and Twenty-Fourth Amendments to the United States Constitution; Title II of the ADA, 42 U.S.C. § 12131; and Sections 2 and 201 of the VRA, 52 U.S.C. §§ 10301, 10302, 10501. *See* Amend. Compl., Doc. 75 at 66-77.

4. Pursuant to the terms of the proposed Consent Order, the Jefferson County Defendants do not admit liability, but—if the Court orders declaratory or injunctive relief against the State of Alabama, Alabama Secretary of State, the probate judges, circuit clerks, and/or absentee election managers in this action, the Jefferson County Defendants agree to comply with the Court’s orders and to act in good faith to cooperate with Plaintiffs and the Court in carrying out all duties, actions, and activities under this Court’s orders that fall within the scope of the authority of the Jefferson County Defendants.

5. Through their signatures below, the Parties are agreeing to the proposed Consent Order as to form and substance and resulting settlement. The Parties and

² *Id.*

the signatories to this Motion represent and warrant to each other and the Court that they have the full power and authority to enter into this Consent Order, to bind their respective law firms, organizations, and clients to the terms of this Consent Order, and that they have not assigned, pledged, encumbered, or in any manner transferred or conveyed any portion of the claims or causes of action covered by this Consent Order.



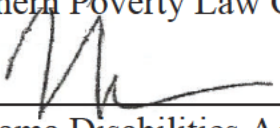
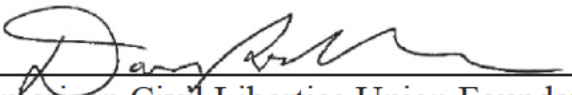
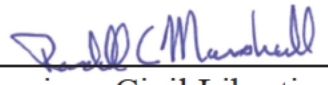
6. The proposed Consent Order addresses all of the disputes and legal claims asserted in the action against the Jefferson County Defendants and provides that the Court shall retain jurisdiction until at least December 31, 2021 to enforce the proposed Consent Order, but otherwise the action is settled, with costs to-date taxed as paid.

7. The Parties and their counsel believe that the proposed Consent Order and the settlement is fair, adequate, reasonable, and in the best interests of the Parties.

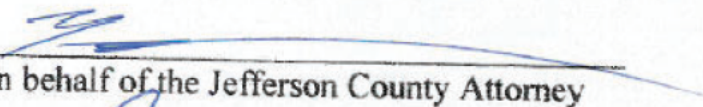

8. For the reasons stated above and in the proposed Consent Order, the Parties respectfully request that the Court expeditiously grant this motion and enter the proposed Consent Order as soon as practicable.

Respectfully submitted on August 7, 2020

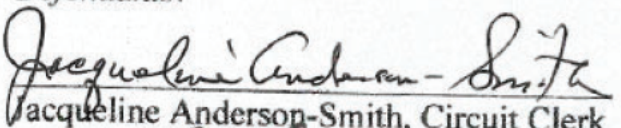
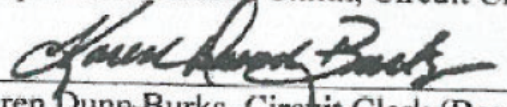
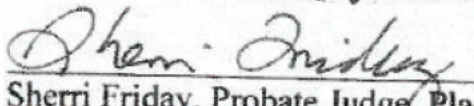
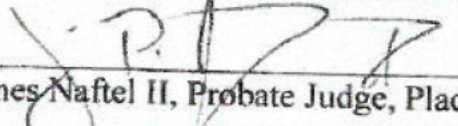
On Behalf of All Named Plaintiffs and Plaintiffs' Counsel:

 _____ NAACP Legal Defense & Educational Fund, Inc.	<u>8/7/20</u> Date
 _____ Southern Poverty Law Center	<u>8/7/20</u> Date
 _____ Alabama Disabilities Advocacy Center	<u>8/7/20</u> Date
 _____ American Civil Liberties Union Foundation	<u>8/7/20</u> Date
 _____ American Civil Liberties Union of Alabama	<u>8/7/20</u> Date

On Behalf of Defendant Jefferson County Defendants:

 _____ On behalf of the Jefferson County Attorney	<u>8-6-20</u> Date
 _____ On behalf of the Jefferson County Attorney	<u>8-6-20</u> Date

Defendants:

 _____ Jacqueline Anderson-Smith, Circuit Clerk	<u>8/6/20</u> Date
 _____ Karen Dunn-Burks, Circuit Clerk (Bessemer Division)	<u>8/6/2020</u> Date
 _____ Sherri Friday, Probate Judge, Place 2	<u>8/6/2020</u> Date
 _____ James Naftel II, Probate Judge, Place 1	<u>8/6/2020</u> Date

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of August 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all counsel of record.

/s/ Deuel Ross

Deuel Ross

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