

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

**Janet May, John Dow, William Boyd,  
and Kenyada S. Adams, and  
Duncan Kirkwood**

Plaintiffs,

v.

**City of Montgomery, Alabama,** a  
municipal corporation; **Bobby N. Bright,**  
in his official capacity as Mayor of the  
City of Montgomery

Defendants.

CIVIL ACTION NO.  
2:07 cv 738-MHT-WC

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**Plaintiffs' Response to Motion to Dismiss (doc. 34)**

The plaintiffs' complaint includes a state law claim. The Alabama Supreme Court, in *Siegelman v. Folmar*, 432 So.2d 1246 (Ala. 1983), ordered that Montgomery's municipal elections remain on the dates provided by Act 618, rather than Ala. Code §§ 11-46-5 and -21. The plaintiffs now ask this Court to follow what the Alabama Supreme Court has stated the state law requires. There is nothing novel or complex about the claim. Thus, it does not deserve dismissal under 28 U.S.C. § 1367(c)(1).

The state law claim arises out of the same facts as the federal claim. It will be a waste of judicial (not to mention the parties') resources to force the plaintiffs to litigate two closely-related claims – either of which will give full relief to the plaintiffs – in separate courts.

For these reasons, the cases cited by the Court in Doc. 29 are simply inapposite. While there may be reasons for federal courts not to decide *novel* questions of state election law, the application of *settled* state election law is another matter.

The motion to dismiss should be denied.

Submitted by,

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#### CERTIFICATE OF SERVICE

I certify that on 18 October 2007 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 attorneys:

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