

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:12-cv-00179-MHT-WC
)	
STATE OF ALABAMA and)	
HONORABLE BETH CHAPMAN,)	
Secretary of State, in her official capacity,)	
)	
Defendants.)	

**UNOPPOSED AND TIME-SENSITIVE MOTION FOR ENTRY OF AN ORDER
CONCERNING A SPECIAL ELECTION**

Defendants, the State of Alabama and Secretary of State Beth Chapman, respectfully move this Court for entry of an order resolving certain issues related to an upcoming special federal election. In support of this motion, Defendants state as follows:

- 1) Congressman Jo Bonner, who represents Alabama's 1st Congressional District, has publicly announced his resignation effective August 2, 2013.
- 2) Pursuant to U.S. Const. Art. I § 2, the vacancy will be filled by a special election called by Governor Robert Bentley.
- 3) The State of Alabama and voters in the 1st Congressional District have a strong interest in seating a new Congressman before Congress returns in early January, 2014.
- 4) The parties share a commitment that UOCAVA voters be allowed a full opportunity to participate in the special election. Defendants seek a way to balance the interests of UOCAVA voters with the need for a prompt election.

5) The parties have discussed these issues extensively and worked together to draft the attached proposed order. The United States does not dispute the Defendants' contentions herein and does not oppose this motion.

6) In the Defendants' view, an appropriate way to balance the various interests of voters is to use election tools that will enable the State of Alabama to shorten the election schedule while complying with UOCAVA.

7) Defendants contend that due to the use of these procedures and the accelerated calendar, it is in the best interests of UOCAVA voters if the Alabama Secretary of State be permitted to perform certain functions that State law assigns to local election officials.

8) Without the relief requested in this Order, Defendants could not conduct an election on the proposed schedule and comply with UOCAVA.

9) Defendants therefore request that the Court enter the attached proposed order that will permit the following:

- a. The use of "instant run-off" ballots for UOCAVA voters, which will permit UOCAVA voters to participate in both the special primary election and, if a runoff is required, the special primary runoff election, through a single ballot. The ballot used would be in the general form as the ballot attached as Exhibit A. UOCAVA voters will also have the option of using a standard runoff ballot that will be sent as soon as practicable after the results of the primary election are certified.
- b. The use of "Special General Election" ballots for UOCAVA voters that will be sent at least 45 days before the general election, and before the results of any runoff election are known. The ballot used would be in the general form

as the attached Exhibit B. UOCAVA voters will also have the option of using a standard general election ballot that will be sent as soon as practicable after the results of the runoff election are certified, if a runoff election is necessary.

- c. Authorization for the Secretary of State to perform certain duties related to voter registration, ballot transmission, and canvassing of ballots for UOCAVA voters.
- d. While the Alabama Secretary of State would communicate to UOCAVA voters the special features of this election even without an order, the proposed order sets out a requirement that the Secretary do so.
- e. The proposed order further requires communication between the parties concerning the State's success in meeting its obligations under the order.
- f. Other necessary and complimentary terms as set out in the order.
- g. The use of these procedures is limited to the Special Congressional Election.

10) Because Congressman Bonner's resignation will soon be effective, and because the State will need to make preparations for the election and provide information to voters and candidates, Defendants respectfully request that the Court inform the parties in advance of the resignation date if the Court is inclined to grant this request.

11) Defendants do not waive any position or defense in the underlying litigation by requesting this order.

12) Defendants would be pleased to respond to any questions the Court may have.

WHEREFORE, Defendants request that the Court enter the attached proposed order governing the upcoming special election.

Respectfully submitted,

LUTHER STRANGE (ASB-0036-G42L)
Attorney General

BY:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of July, 2012, I served the foregoing document *via* email on the following counsel for the United States: Ernest McFarland, Amanda Hine and Anna Baldwin.

/s James W. Davis
Of Counsel