

**United States District Court  
Northern District of Alabama**

**MATTHEW TORTORICE, JOSHUA ISBELL,  
JOHN BRYANT HALL, MELISSA JOHNSON,  
TABITHA DAILEY HANNER, and BRIAN  
SWAFFIELD,**

*Plaintiffs,*

Case No. \_\_\_\_\_

v.

**CITY OF MARGARET,**

*Defendant.*

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiffs Matthew Tortorice, Joshua Isbell, John Bryant Hall, Melissa Johnson, Tabitha Dailey Hanner, and Brian Swaffield bring this action for declaratory and injunctive relief against the Defendant City of Margaret, and allege the following:

**SUMMARY OF THE ACTION**

1. This action challenges the City of Margaret’s city council district plan (“District Plan”) as unconstitutionally malapportioned. The wild deviations in population between districts violate the Fourteenth Amendment to the United States Constitution. The City of Margaret has experienced significant population growth, which has led to extreme population imbalances among the City of Margaret’s city council districts. For example, District 4 has a population of 2,208, while District 2 has a population of 488. Despite these circumstances, the City of Margaret has not reapportioned its city council districts for at least 25 years. It is evident that the City of Margaret will not adopt a district plan to remedy this problem prior to the next election. Plaintiffs therefore ask this Court to declare the District Plan unconstitutional in violation of the Fourteenth Amendment; enjoin Defendant from using the District Plan in any future elections;

and, implement a new district plan that adheres to the constitutional requirement of “one person, one vote.” *Reynolds v. Sims*, 377 U.S. 533, 558 (1964) (citations omitted).

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, because the action arises under the Constitution and the laws of the United States. This Court also has jurisdiction under 42 U.S.C. § 1983. This Court may also grant declaratory relief under 28 U.S.C. § 2201.

3. Venue in this Court is proper under 28 U.S.C. § 1391(b)(1), because the Defendant resides in this district, and under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claim occurred in this district.

### **PARTIES**

4. Plaintiff Matthew Tortorice is a United States citizen and registered voter in the City of Margaret. He resides in Margaret City Council District 4. He is also the current, elected City Council member for District 4.

5. Plaintiff Joshua Isbell is a United States citizen and registered voter in the City of Margaret. He resides in Margaret City Council District 4.

6. Plaintiff John Bryant Hall is a United States citizen and registered voter in the City of Margaret. He resides in Margaret City Council District 4.

7. Plaintiff Melissa Johnson is a United States citizen and registered voter in the City of Margaret. She resides in Margaret City Council District 4.

8. Plaintiff Tabitha Dailey Hanner is a United States citizen and registered voter in the City of Margaret. She resides in Margaret City Council District 3.

9. Plaintiff Brian Swaffield is a United States citizen and registered voter in the City of Margaret. He resides in Margaret City Council District 5.

10. Defendant City of Margaret is a political and geographical subdivision of the State of Alabama.

### **ALLEGATIONS**

11. The City of Margaret has a mayor-council form of government, under which the mayor is the elected chief executive, and the city council holds and exercises the City of Margaret's legislative power.

12. The City of Margaret City Council has five members, elected in single-member districts, for terms of four years.

13. The population of the City of Margaret has increased from approximately 1,100 in 2000 to approximately 6,200 in 2023. Due to this population growth, the existing city council districts are unconstitutionally malapportioned.

14. According to the Regional Planning Commission for Greater Birmingham, the total population for each city council district is the following:

- a. District 1: 659
- b. District 2: 488
- c. District 3: 503
- d. District 4: 2,208
- e. District 5: 1,248

*See Exhibit A.*

15. According to the Regional Planning Commission for Greater Birmingham, the total voting-age population for each district is the following:

- a. District 1: 487
- b. District 2: 304
- c. District 3: 357
- d. District 4: 1,599
- e. District 5: 892

*See* Exhibit A.

16. When measured by total population, District 4 is more than 350% more populous than District 2.

17. When measured by total voting-age population, District 4 is more than 400% more populous than District 2.

18. Using the total population figures in paragraph 14, the ideal population for each district is 1,021. District 4's population is twice this ideal population.

19. Deviations in excess of ten percent have been found to violate the Fourteenth Amendment. The acute deviation here violates the Fourteenth Amendment. As a result of these circumstances, Plaintiffs are being denied equal protection of the law by virtue of the dilution of their votes.

20. The City of Margaret has not reapportioned its city council districts since the 1990s.

### **CLAIM FOR RELIEF**

#### **COUNT I**

#### **Violation of the Fourteenth Amendment's Equal Protection Clause (42 U.S.C. § 1983)**

21. Plaintiffs reallege the preceding paragraphs as if fully stated herein.

22. The Equal Protection Clause of the U.S. Constitution's Fourteenth Amendment provides: "No State shall ... deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., Amend XIV, Sec. 1.

23. The Equal Protection Clause guarantees the opportunity for equal participation by all qualified voters in an election.

24. As relevant here, the Equal Protection Clause requires substantial population equality between electoral districts. *See Reynolds v. Sims*, 377 U.S. 533 (1964).

25. The requirement of substantial population equality between electoral districts applies to local government apportionment.<sup>1</sup> *See Avery v. Midland County*, 390 U.S. 474 (1968).

26. The Equal Protection Clause thus forbids the election of local government officials from districts of wildly disparate population.

27. When such an election occurs, an individual's right to vote is unconstitutionally impaired because its weight is in substantial fashion diluted when compared with votes of voters living in other districts.

28. The City of Margaret's city council districts are not substantially equal in population, as required by the Fourteenth Amendment's Equal Protection Clause.

29. Plaintiffs' votes are being diluted when compared to the votes of voters living in other districts.

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<sup>1</sup> Alabama law also requires reapportionment if, after the publication of the federal census, "any council district contains a population which is 10 percent more or less than the total population of the city divided by the number of council districts[.]" Ala. Code § 11-43B-16. The City of Margaret is also violating this state mandate.

Furthermore, the Handbook for Mayors and Councilmembers reminds local government officials, "For all municipalities which elect councilmembers from wards, regardless of the size of the municipality or the system chosen, each ward must be composed of substantially the same population. This is a requirement of the U.S. Constitution and is commonly known as the 'one man, one vote rule.' Note that the rule does not require exact equality but substantial equality of population in each ward." Alabama League of Municipalities, Handbook for Mayors and Councilmembers, Ch. 3, Sec. 42(c) (2020 ed.).

30. The City of Margaret's District Plan therefore violates Plaintiffs' rights under the Fourteenth Amendment's Equal Protection Clause and 42 U.S.C. § 1983.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for a judgment:

1. Declaring the existing City of Margaret city council district plan unconstitutional in violation of the Fourteenth Amendment of the United States Constitution;
2. Permanently enjoin the City of Margaret and its officers and agents from conducting any elections under the existing City of Margaret city council district plan;
3. Order the City of Margaret to adopt a new city council district plan that complies with the Constitutional requirement of substantial population equality;
4. Award Plaintiffs their attorneys' fees, cost, and expenses in this action;
5. Retain jurisdiction to ensure compliance with this Court's orders and issue further orders; and,
6. Grant any other relief this Court deems just and proper.

Dated: January 24, 2025.

For the Plaintiffs:

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