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THOMAS G. GOAVER, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

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

FILED

SEP 15 1994

THOMAS G. GOAVER, CLK  
v  
\_\_\_\_\_  
TGG

IN RE )  
EMPLOYMENT DISCRIMINATION )  
LITIGATION AGAINST THE STATE )  
OF ALABAMA, et al: )  
)  
)  
EUGENE CRUM, JR., et al., )  
)  
Plaintiffs, )  
v. )  
)  
STATE OF ALABAMA, et al. )  
)  
Defendants. )

CIVIL ACTION NO. 94-T-356-N

**MOTION FOR CERTIFICATION OF A DEFENDANT CLASS OF ALL  
AGENCIES AND DEPARTMENTS AT THE STATE OF ALABAMA**

Comes the plaintiffs and plaintiff-intervenors who move the Court to certify a defendant class of all agencies and departments of the State of Alabama and to appoint the same representatives for such class as were appointed for the defendant class certified in United States v. Ballard, CV#-T-2709-S. As ground, the plaintiffs state the following:

1. In the Memorandum Opinion entered in United States v. Frazer on August 20, 1976 the Court certified a defendant class "the State of Alabama and all of its agencies except the Department of Public Safety". Id., p. 3. The class representatives for this class was the Alcohol Beverage Control Board, the Department of Corrections, the Department of Revenue, and the Highway Department. Id. Plaintiffs seek the certification of the same defendant class

12

represented by the same class representative departments, except for the deletion of the Highway Department, for the reasons which follow.

2. The State of Alabama, and its various subordinate agencies and departments, utilizes a common selection procedure administered by the Alabama State Personnel Board as the agent of all such agencies and departments. See, Powers v. Alabama Dept. of Education, 854 F.2d 1285, 1294 (11th Cir.), cert denied, 109 S.Ct. 3158 (1988)(Holding State of Alabama departments to be liable for the acts of the SPD because "an employer cannot delegate several aspects of its promotion procedure to another agency such as SPD and then escape liability if that agency develops discriminatory practices."); Williams v. City of Montgomery, 742 F.2d 586, 589 (11th Cir. 1984).

3. The plaintiffs' challenge systemic discrimination in the administration of the selection procedure common to all defendants, both in their individual claims and in the claims brought on behalf of the class. The remedies that are sought will require structural modifications of the selection procedure administered by the Personnel Department and the various agencies and departments of the State utilizing such procedures, as well as structural modifications to the injunctive decrees already entered in United States v. Ballard, supra.

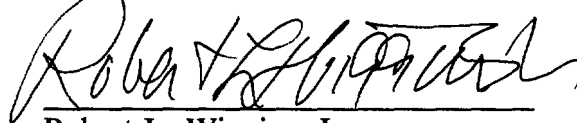
4. The modifications to the challenged selection procedure which are sought in this action should not be entered piecemeal against only certain departments or agencies, creating in effect a multitude of different merit systems which vary from one agency of the State to another.

5. In further support of this Motion the plaintiffs incorporate the affidavits and other evidentiary materials submitted in support of class certification, including, but not limited to judicial notice of the decrees entered in United States v. Ballard, Civil Action #T-2709-N, and

Reynolds v. Alabama Department of Transportation, CV-85-T-665-N (insofar as the State Personnel Department is a party to the latter decree and proceedings).

WHEREFORE, for all the foregoing reasons, the plaintiffs request certification of the defendant class defined herein.

Respectfully submitted,



Robert L. Wiggins, Jr.

Alabama State Bar Number: 247-82-1754

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This the 15<sup>th</sup> day of September, 1994.  
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