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IN THE UNITED STATES DISTRICT COURT

FOR THE MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

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U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

IN RE:)
EMPLOYMENT DISCRIMINATION)
LITIGATION AGAINST THE STATE)
OF ALABAMA, et al:)

EUGENE CRUM, JR., et al.,)

Plaintiffs,)

v.)

CIVIL ACTION NO. 94-T-356-N

STATE OF ALABAMA, et al.)

Defendants.)

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

Comes now the plaintiffs and move this Court to certify a defendant class of all agencies and departments of the State of Alabama, as was certified in *United States v. Frazer*, CV#-T-2709-S.

As grounds, the plaintiffs state as follows:

In the Memorandum Opinion entered in *United States v. Frazer* on August 20, 1976, the Court certified a defendant class of "the State of Alabama and all of its agencies except the Department of Public Safety". *Id.*, p. 3. Plaintiffs seek the certification of the same defendant class except for the Department of Transportation and Department of Public Safety

The State of Alabama and its various subordinate agencies and departments, utilize a

107

common selection procedure administered and overseen by the State of Alabama Personnel Department and Board ("SPD"), 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).

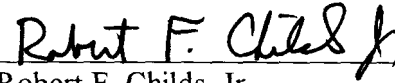
The plaintiffs' challenge systemic discrimination in the administration of the selection procedure common to all defendants, both in their individual claims and in the claims brought on behalf of the putative class. The remedies that are sought and are necessary and essential will require structural modifications to the selection procedure administered by SPD and the various agencies and departments of the State of Alabama utilizing such procedure.

The modifications to the challenged selection procedure 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 of Alabama to another.

In further support of this Motion, the plaintiffs incorporate its Memorandum in Support of Class Certification, filed contemporaneously herewith, along with judicial notice of the decrees entered in *United States v. Frazer*, Civil Action #T-2709-N, and *Reynolds v. Alabama Department of Transportation*, CV-85-T-665-N (insofar as SPD 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,



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CERTIFICATE OF SERVICE

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