

Brock Boone
Randall C. Marshall
ACLU OF ALABAMA
P.O. Box 6179
Montgomery, AL 36106-0179
(334) 265-1747
(334) 265-2754
bboone@aclualabama.org
rmarshall@aclualabama.org

Steven P. Gregory
Gregory Law Firm, P.C.
2700 Corporate Drive
Suite 200
Birmingham, AL 35242
(205) 314-4874
steve@gregorylawfirm.us

M. Virginia Buck
Attorney at Law
P.O. Box 2501
Tuscaloosa, AL 35403
(205) 752-6773
bucklaw@charter.net

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

KIMBERLY FASKING. HERBERT HICKS,)
and HEATHER LYNN BOOTHE,)
)
Plaintiffs,)
)
vs.)
)
JOHN H. MERRILL, Alabama)
Secretary of State, in his official capacity,)
)
Defendant)

CIVIL ACTION NO. _____

COMPLAINT

This is an action for declaratory and injunctive relief brought pursuant to 42 U.S.C. § 1983 for violation of the First Amendment to the United States Constitution, against Alabama Secretary of State John H. Merrill.

Introduction

1. Alabama Secretary of State John Merrill (“Defendant Merrill” or “Merrill”) uses his Twitter account, @JohnHMerrill, primarily to post information about his political activity, the policies and procedures of the office of the Alabama Secretary of State, Alabama elections, election rules, election law, and election contests, all matters within his official capacity as Secretary of State.

2. In a manner that suppresses dissent and discussion in this public forum, Merrill has blocked Twitter users who have asked questions about Alabama election law, corrected him about Alabama election law, criticized him or made comments with which Merrill disagrees, or for reasons known only to Defendant Merrill. Defendant Merrill has also blocked well-regarded constitutional and election lawyers from across the country¹ who were trying to help Merrill

¹ Joshua A. Douglas, *Is Secretary of State John Merrill violating election norms?*, AL.COM (Nov. 22, 2017), https://www.al.com/opinion/index.ssf/2017/11/is_secretary_of_state_john_mer.html; Brad Friedman, *My Incredibly Bizarre Email Exchange With AL Sec. of State John Merrill: 'BradCast' 5/31/2018*, DAILYKOS.COM (May 31, 2018), <https://www.dailykos.com/stories/2018/5/31/1768593/-My-Incredibly-Bizarre-Email-Exchange-With-AL-Sec-of-State-John-Merrill-BradCast-5-31-2018>

understand election law after Merrill made incorrect statements on CNN regarding the 2017 Alabama Special United States Senate election. Defendant Merrill has also blocked at least one journalist² trying to ask him questions.³ This practice is unconstitutional, and this lawsuit seeks to end it.

3. The United States Supreme Court recognized last year that social media platforms such as Twitter provide “perhaps the most powerful mechanisms available to a private citizen to make his or her voice heard.” *Packingham v. North Carolina*, 137 S.Ct. 1730, 1737 (2017). Twitter, in particular, has become the modern day town square, as “Governors in all 50 States and almost every Member of Congress have set up accounts,” *id.* at 1735, allowing citizens to “petition their elected representatives and otherwise engage with them in a direct manner,” *id.* The *Packingham* court acknowledges that social media platforms like Twitter are “the most important places (in a spatial sense) for the exchange of views.” *id.*

4. Because of the way the Alabama Secretary of State uses the @JohnHMerrill Twitter account, the account is a public forum under the First Amendment. Defendant Merrill has promoted the Alabama Secretary of State’s Twitter account

² My Incredibly Bizarre Email Exchange With AL Sec. of State John Merrill: 'BradCast' 5/31/2018, DailyKos.com (May 31, 2018), <https://www.dailykos.com/stories/2018/5/31/1768593/-My-Incredibly-Bizarre-Email-Exchange-With-AL-Sec-of-State-John-Merrill-BradCast-5-31-2018>.

³ Defendant Merrill repeatedly sent vitriolic and disturbing emails to a journalist because the journalist wrote a story about how Defendant Merrill has violated the Constitution by blocking individuals on Twitter. Merrill emailed the journalist multiple times stating “you will never be unblocked.” Merrill then accused the journalist of living with his mother.

as a key channel for official communication. Merrill uses the account to make formal announcements, defend his official actions, report on meetings with business and political leaders across the state, and promote his positions on elections and other business of the Secretary of State. Tweets from @JohnHMerrill have been treated as “official statements” by his followers and, indeed, by Defendant Merrill himself. The Secretary of State’s own Deputy Chief of Staff and Press Secretary acknowledge that the @JohnHMerrill account contains “official statements.”

5. As indicated in this email, the office of the Alabama Secretary of State treats the Twitter account as an official account used for government business. This email contains the Alabama Secretary of State’s Deputy Chief of Staff responding to a question about the @JohnHMerrill account. The email explains that the @JohnHMerrill twitter account will continue to block constituents because of “their political views[:.]”

From: Bennett, John [mailto:John.Bennett@sos.alabama.gov]
Sent: Thursday, May 24, 2018 12:59 PM
To: Brad Friedman
Cc: Merrill, John; Brewer, David
Subject: Re: REQUEST FOR COMMENT

Brian,

From Secretary Merrill:

"I will continue to use my social media forums the way that I have utilized them in the past. They will not be utilized by other users to express their political views or promote their agendas. If someone is unable to reach me through social media they are always welcome to contact me at the office at <XXX-XXX-XXX> or on my cell phone at <XXX-XXX-XXX>. That is the most efficient and preferred way to contact me."

Please let me know if you have any questions questions or concerns.

Thank you,
John Bennett
Sent from my iPhone

6. Defendant Merrill has made @JohnHMerrill accessible to all (except those persons and entities he has blocked), taking advantage of Twitter's interactive platform to directly engage the Alabama Secretary of State's thousands of followers. The Alabama Secretary of State's tweets routinely generate numerous comments and interactions.

7. Plaintiffs are individuals from Alabama who have been blocked from the @JohnHMerrill account because of opinions they expressed or questions they asked in replies to the Alabama Secretary of State's tweets. These Plaintiffs have been prevented or impeded from viewing the Alabama Secretary of State's tweets, from replying to the tweets, from viewing the discussions posted by others associated with the tweets, and from participating in those discussions.

Defendant's actions violate the First Amendment rights of these individual

Plaintiffs as well as those of other Twitter users who follow the @JohnHMerrill account and are now deprived of their right to read the speech of the individuals who have been blocked.

8. Plaintiffs respectfully ask that the Court declare that the viewpoint-based exclusion of the individual Plaintiffs violates the First Amendment of the United States Constitution and order Defendant Merrill to restore their access.

Jurisdiction and Venue

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1343(a)(3). Plaintiffs bring this action for Declaratory and Injunctive relief pursuant to 28 U.S.C. §§ 2201–2202 and pursuant to 42 U.S.C. § 1983 for violation of rights under the First and Fourteenth Amendments to the United States Constitution.

10. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) and (c)(1). Defendant Merrill is employed as the Alabama Secretary of State, with offices within this District.

Parties

11. Plaintiff Kimberly Fasking is a resident of Jefferson County, Alabama. On Defendant Merrill's Twitter page, Ms. Fasking asked Defendant Merrill questions

about crossover voting. Defendant Merrill blocked her Twitter account on or about November 4, 2017.

12. Plaintiff Herbert Hicks is a resident of Jefferson County, Alabama. Defendant Merrill blocked Mr. Hicks's Twitter account on or about November 3, 2017 after Mr. Hicks asked Merrill about one of his speaking engagements. Below is a screenshot of what Mr. Hicks sees when he attempts to access the tweets of Defendant Merrill:



13. Plaintiff Heather Lynn Boothe is a resident of Tuscaloosa County, Alabama. Defendant Merrill blocked Ms. Boothe’s Twitter account on or about November 13, 2017, when she stated “Good point! Ballot has major typo[.]”

14. Defendant John H. Merrill is Secretary of State for the State of Alabama and is sued in his official capacity only. Defendant Merrill operates and/or oversees the operation of a Twitter account under the handle @JohnHMerrill. This account displays as its tagline “Representing the People of Alabama as their 53rd Secretary of State.” Defendant Merrill has blocked Fasking, Hicks, and Boothe, as well as others, from his Twitter account.

Factual Allegations

A. Twitter

15. Twitter, a social media platform with more than 300 million active users worldwide, includes some 70 million users in the United States. The platform allows users to publish short messages called “tweets,” and to republish, quote, or respond to others’ messages. A significant number of tweets are speech by, to, or about government, politics, law, elections, election law, and voting rights.

16. Users. A Twitter “user” is an individual person, a business, a corporation, or an association which has created an account on the platform. A user can post

“tweets” of up to 280 characters in length, to a webpage on Twitter that is attached to the user’s account. Tweets may include photographs, videos, and links. Some Twitter users do not tweet at all. Others publish hundreds of messages a day.




17. Timelines. A Twitter user’s webpage displays all tweets generated by the user, with the most recent tweets appearing first. This display is known as a user’s “timeline.” When a user generates a tweet, the timeline updates immediately to include that tweet. Anyone who can view a user’s public Twitter webpage can see the user’s timeline. On the following page is a screenshot of part of the timeline associated with the @JohnHMerrill account:



18. Handles. Each Twitter account includes a “handle,” an @ symbol followed by a unique identifier (e.g., @JohnHMerrill), and a name (e.g., John Merrill).

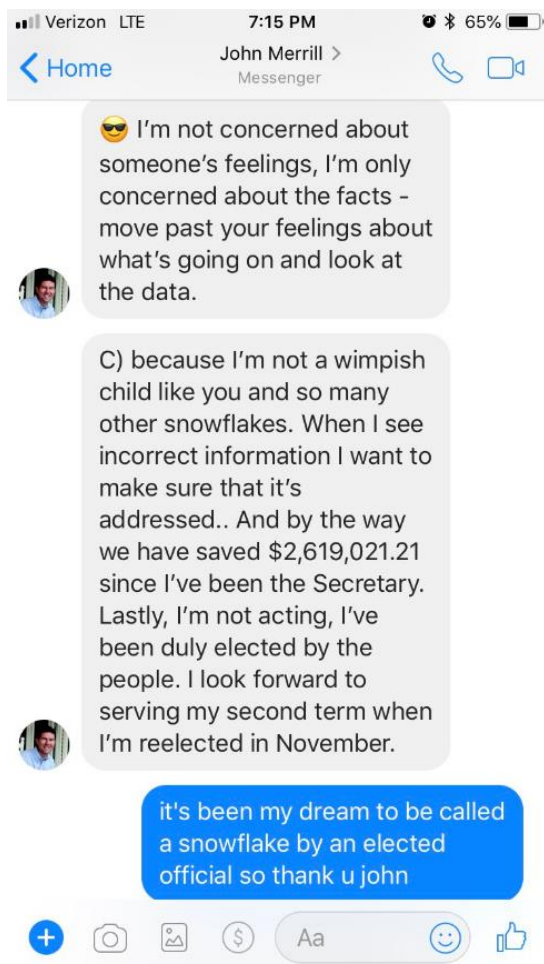
Near the handle is a clickable icon that invites others to “Tweet to” the user. A user’s Twitter webpage may also include a short biographical description, a profile picture, a background image called a “header,” the user’s location, a clickable icon labeled “Message” for one-to-one exchanges, and a small number of photographs and videos posted to the user’s timeline, which link to a full gallery. Thus, part of the webpage for @John H. Merrill recently looked like this:



19. Tweets. An individual “tweet” comprises the tweeted content (i.e., the message, including any embedded photograph, video, or link), the user’s account name (with a link to the user’s Twitter webpage), the user’s profile picture, the date and time the tweet was generated, and the number of times the tweet has been replied to (), retweeted by (), or liked by () other users. Here is a recent tweet from @JohnHMerrill disparaging an Alabama citizen for allegedly wearing fingernail polish:



20. Access. By default, Twitter webpages and their associated timelines are visible to everyone with internet access, including those who are not Twitter users. However, although non-users can view users' Twitter webpages, they cannot interact with users on the Twitter platform. Here is a screenshot of Defendant Merrill interacting with a Twitter user, where Defendant Merrill calls the user “wimpish” and a “snowflake[:.]”



21. Following. Twitter users can subscribe to other users' messages by "following" those users' accounts. Users see all tweets posted or retweeted by accounts they have followed. This display is labeled "Home" on Twitter's site, but it is often referred to as a user's "feed."


22. Verification. Twitter permits users to establish accounts under their real names or pseudonyms. Users who want to establish that they are who they claim to be can ask Twitter to "verify" their accounts. When an account is verified, a blue badge with a checkmark appears next to the user's name on his or her Twitter page and on each tweet the user posts.

23. Retweets. Beyond publishing tweets to their followers, Twitter users can engage with one another in a variety of ways. For example, they can "retweet"—i.e., republish—the tweets of other users, either by publishing them directly to their own followers or by "quoting" them in their own tweets. When a user retweets a tweet, it appears on the user's timeline in the same form as it did on the original user's timeline, but with a notation indicating that the post was retweeted. This is a recent retweet by @JohnHMerrill encouraging his followers to vote Republican:



24. Replies. A Twitter user can also reply to other users' tweets. Like any other tweet, a reply can be up to 280 characters in length and can include photographs, videos, and links. When a user replies to a tweet, the reply appears on the user's timeline under a tab labeled "Tweets & replies." The reply will also appear on the original user's feed in a "comment thread" under the tweet that prompted the reply. Other users' replies to the same tweet will appear in the same comment thread. Reply tweets by verified users, reply tweets by users with a large number of followers, and tweets that are "favorited" and retweeted by large numbers of users generally appear higher in the comment threads. Here is an example of an exchange between Defendant Merrill and a former Alabama mayor where, on multiple occasions, Defendant Merrill accuses the former Alabama mayor of being a criminal:








Brandaun Dean @brandaundean · 23h

Replying to @JohnHMerrill




I was mayor of Brighton for 300 days. During that time I saw what criminals and criminal activity look like up close. That included (4) homicide investigations, misuse of public funds, drug trafficking & political prosecution. You were party to atleast two of those observations.

 1   



John Merrill  @JohnHMerrill · 22h

There's a reason that you're not the mayor of Brighton anymore and it's because you are a criminal! You need not worry we will continue to build a case! We are working with the District Attorney, Attorney General, & federal prosecutors on your case. You can run but you can't hide




   3 



Brandaun Dean @brandaundean · 23h

Replying to @JohnHMerrill



John, I know about you man. I know about you. But understand that you have at your hand a Black man with strong convictions and a belief in wonder working power to overturn all the wrong you have done and are doing. Brandaun Dean is NOT your negro.

 1   



John Merrill  @JohnHMerrill · 22h

You, @brandaundean are a criminal and will be further investigated, indicted, and ultimately convicted of the crime's against the people of Brighton and Jefferson County! You can run but you can't hide!

   2 

25. Comment threads. A Twitter user can also reply to other replies. A user whose tweet generates replies will see the replies below his or her original tweet, with any replies-to-replies nested below the replies to which they respond. The

collection of replies and replies-to- replies is sometimes referred to as a “comment thread.” Twitter is called a “social” media platform in large part because of comment threads, which reflect multiple overlapping conversations among and across groups of users. Below is a @JohnHMerrill tweet that prompted numerous comments:



The screenshot shows a Twitter thread. At the top is a tweet from John Merrill (@JohnHMerrill) dated 15 Aug 2017, stating that being inactive does not affect voting ability. This is followed by a reply from Amy Margaret Wright (@AmyMargaretWrig) asking how she could be moved to inactive after voting for 18 years. John Merrill replies that two mailed cards were not received and returned. Amy Margaret Wright asks what he means by 'not received' and suggests it might be a tactic to make voting harder. John Merrill then asks the USPS why they didn't deliver information to Congressman Brooks. Below this thread is a tweet from Calbeast (@Ca1beast) replying to the entire thread, calling John Merrill a typical Alabama politician who supports voter suppression. The Calbeast tweet has 2 likes and is dated 5:37 AM - 16 Aug 2017.

John Merrill @JohnHMerrill · 15 Aug 2017
Being inactive does not affect an individual's ability to vote if they update their information which they can do on Election Day

Amy Margaret Wright @AmyMargaretWrig · 15 Aug 2017
But how could i have been moved to inactive when I've voted in every election in past 18 yrs at same polling place?

John Merrill @JohnHMerrill · 15 Aug 2017
Because there were two cards that were mailed to your home that were not received by anyone and when they were returned you became in active

Amy Margaret Wright @AmyMargaretWrig · 15 Aug 2017
What do you mean not received by anyone? Something mailed to my house would not have been returned.

Amy Margaret Wright @AmyMargaretWrig · 15 Aug 2017
Why would it have been returned? This makes no sense except jamming up the works to make it harder for people to vote

John Merrill @JohnHMerrill · 15 Aug 2017
Why don't you ask the United States Postal Service that question? Ask the USPS why they didn't deliver Congressman Brooks information to him

Calbeast @Ca1beast
Replying to @JohnHMerrill @AmyMargaretWrig and 2 others
Ahh Johnny boy is your typical Alabama politician that's ok with voter suppression.
5:37 AM - 16 Aug 2017

2 Likes

26. Favorites. A Twitter user can also “favorite” or “like” another user’s tweet by clicking on the heart icon that appears under the tweet. By “liking” a tweet, a user may mean to convey approval or to acknowledge having seen the tweet.

27. Mentions. A Twitter user can also “mention” another user by including the other user’s Twitter handle in a tweet. A Twitter user mentioned by another user will receive a “notification” that he or she has been mentioned in another user’s tweet.

28. Control. Tweets, retweets, replies, likes, and mentions are controlled by the user who generates them. No other Twitter user can alter the content of any retweet or reply, either before or after it is posted. Twitter users cannot prescreen tweets, replies, likes, or mentions that reference their tweets or accounts.

29. Protected Tweets. Because all Twitter webpages are by default visible to all Twitter users and to anyone with access to the internet, users who wish to limit who can see and interact with their tweets must affirmatively “protect” their tweets. Other users who wish to view “protected” tweets must request access from the user who has protected her tweets. “Protected” tweets do not appear in third-party search engines, and they are only searchable on Twitter, and only by the user and her approved followers.

30. Blocking. Twitter provides users with the capability to block other users; it is the users themselves who decide whether to make use of this capability. A user who blocks another user prevents the blocked user from interacting with the first user's account on the Twitter platform. A blocked user cannot see or reply to the blocking user's tweets. A blocked user cannot view the blocking user's list of followers or followed accounts. A blocked user cannot use the Twitter platform to search for the blocking user's tweets. The blocking user will not be notified if the blocked user mentions her; nor will the blocking user see any tweets posted by the blocked user.

31. If the blocked user attempts to follow the blocking user or to access the Twitter webpage from which the user is blocked, the user will see a message indicating that the other user has blocked her from following the account and from viewing the tweets associated with the account. *See supra* paragraph 12.

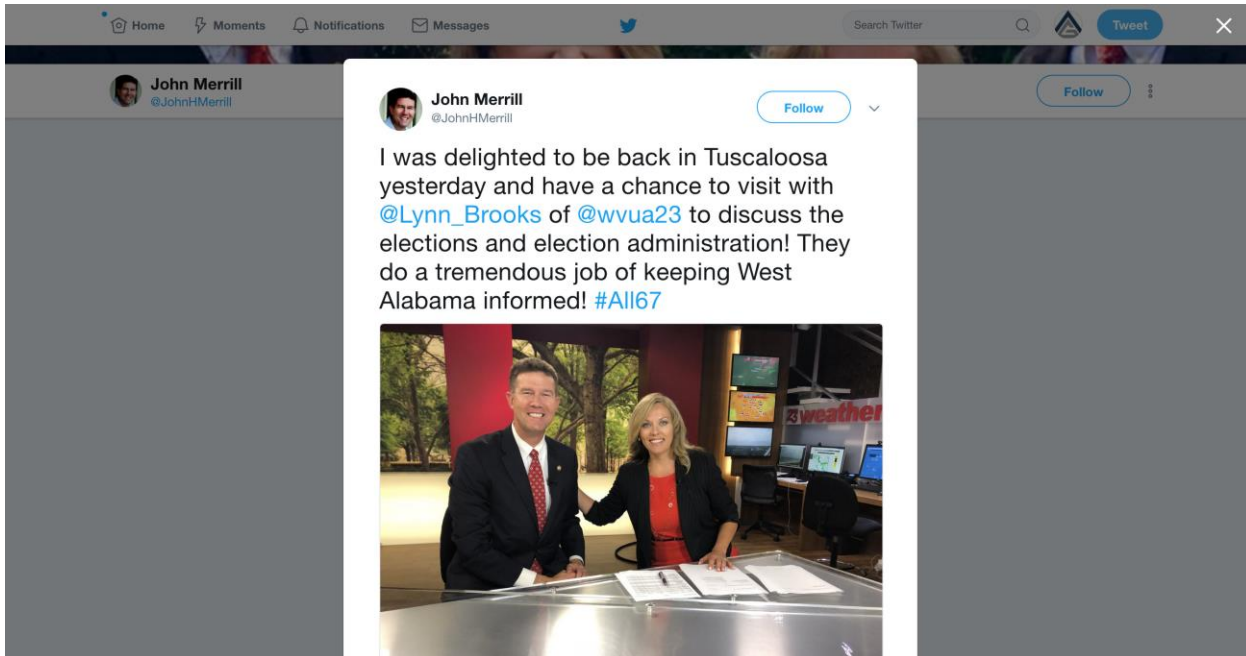
B. The @JohnHMerrill account

32. Defendant Merrill presents the Twitter account to the public as one that he operates in his official capacity rather than his personal one. The page bears the tagline "Representing the People of Alabama as their 53rd Secretary of State." The Secretary of State's Office regards the account as official and states that it will continue to block users for their political beliefs. *See supra* paragraph 5.

33. The @JohnHMerrill account is accessible to the public at large without regard to political affiliation or any other limiting criteria. Defendant Merrill has not “protected” his tweets, and anyone who wants to follow the account can do so. He has not issued any rule or statement purporting to limit (by form or subject matter) the speech of those who reply to his tweets. The account has over 5,400 followers.

34. Defendant Merrill uses @JohnHMerrill, often multiple times a day, to announce, describe, and defend his policies; to promote his agenda; to announce official decisions; to publicize visits to constituents, fund-raising events or political events; and to challenge media organizations whose coverage he believes to be unfair. Defendant Merrill sometimes uses the account to announce official decisions and policies before those decisions and policies are announced through other official channels. As of the date of this filing, Defendant Merrill had tweeted over 12,000 times.

35. Similarly, Defendant Merrill posted this tweet speaking of his “delight” at the opportunity to discuss the Secretary of States duties related to administering elections:



36. Those who are blocked from the account are impeded in their ability to learn information that is shared only through that account.

37. The comment threads associated with tweets from @JohnHMerrill are important forums for discussion and debate about Defendant Merrill, his decisions, and Alabama government policy. As such, the @JohnHMerrill account is a kind of digital town hall in which the Defendant uses the tweet function to communicate news and information to the public; and members of the public use the reply function to respond and exchange views with one another.

C. Defendant's blocking of Plaintiffs from the @JohnHMerrill account

The Individual Plaintiffs

38. The Individual Plaintiffs are Twitter users who have been blocked by Defendant Merrill from the @JohnHMerrill account because they criticized, questioned, or merely commented about the Alabama Secretary of State or his policies. Defendant's blocking of the Individual Plaintiffs from the @JohnHMerrill account prevents or impedes the Individual Plaintiffs from viewing the Alabama Secretary of State's tweets; from replying to these tweets; from viewing the comment threads associated with these tweets; and from participating in the comment threads.

39. Defendant's viewpoint-based blocking of the Individual Plaintiffs from the @JohnHMerrill account infringes upon the individual Plaintiffs' First Amendment rights. It imposes an unconstitutional restriction on their participation in a designated public forum. It imposes an unconstitutional restriction on their right to access statements that Defendants are otherwise making available to the public at large. It imposes an unconstitutional restriction on their right to petition the government for redress of grievances.

Kimberly Fasking

40. Plaintiff Kimberly Fasking is a wife, mother of six children, and a third-year law student. She is an active participant in local and national politics. She uses Twitter, as well as other social media, primarily to keep abreast of issues facing her city, state, and country, as well as to communicate with elected officials and other constituents. She often responds to these officials' posts and engages with them and other constituents on those platforms.

41. Ms. Fasking contacted Defendant Merrill on November 4, 2017, via Twitter regarding crossover voting. Merrill was responding to Senator Doug Jones's tweet to him, where Jones had thanked Merrill for clarifying what had been for many a complicated issue with the threat of severe penalties. After a conversation between Mr. Merrill and Ms. Fasking, Mr. Merrill blocked her on Twitter. She took a screen shot and posted it to his Facebook page with the caption, "Why?" He responded in part with, "I was tired of answering the same questions the same or different ways."

Herbert Hicks

42. Plaintiff Herbert Hicks has worked as a farmer and educator for over 30 years. He had his first taste of politics nearly 50 years ago when he was a child and his father was campaigning for county commissioner. Today he remains active in

politics through engagement with friends and neighbors, making cash donations, and frequent political activity with others on social media.

43. The decrease in print media circulation has turned Mr. Hicks's engagement to mostly social media in recent years. Twitter has provided him an opportunity to expand his political engagement and to keep up to date instantaneously with the world of politics on the local, state, national, and international levels.

44. One of the political leaders Mr. Hicks engaged with, until he was blocked, was Defendant Merrill. Merrill blocked Mr. Hicks around March 6, 2016, after he asked Merrill who extended him an invitation to speak at ceremonies related to the 51st Anniversary of *Bloody Sunday*. Defendant Merrill's response as to why he was blocking access to his Twitter account was that it was a personal account and that Mr. Hicks was a troll.

Heather Lynn Boothe

45. Plaintiff Heather Lynn Boothe is a mother of four and has worked in the mental health field for over 25 years. She has lived in Tuscaloosa County her entire life. Ms. Boothe received her Bachelor's and Master's degrees from the University of Alabama. She uses Twitter to keep up-to-date with local politics and to discuss issues and concerns with other constituents in Alabama. On or about November 13th, 2017 she participated in a Twitter thread discussion in which

another Twitter user had asked the Secretary of State how to mark the special election ballot. Ms. Boothe jokingly replied to one of the participant's comments that there was a typo on the ballot. John Merrill blocked her saying she was promoting fake news.

D. Recent Federal Court Decision

46. Recently, the United States District Court for the Southern District of New York published its opinion and order in *Knight First Amendment Inst. at Columbia Univ. v. Trump*, 302 F. Supp. 3d 541 (S.D.N.Y. 2018). In her Order, the Honorable Naomi Reice Buchwald held, on facts virtually identical to those at issue here, where the defendant Donald J. Trump, President of the United States, had blocked the plaintiffs therein, along with many others, from the @realdonaldtrump Twitter account, “[t]he viewpoint-based exclusion of the individual plaintiffs from that designated public forum [i.e., the Twitter account] is proscribed by the First Amendment and cannot be justified by the President’s personal First Amendment interests.” *Id.* at 75

47. Asked whether he would respect the federal district court's Order in the *Trump* First Amendment Twitter case, Defendant Merrill adamantly refused to unblock Twitter users he previously blocked:



Cause of Action

Violation of the First Amendment of the United States Constitution (Declaratory and Injunctive Relief)

48. Plaintiffs repeat the factual allegations set forth above as if fully set forth herein.

49. Defendant's blocking of the Individual Plaintiffs from the @JohnHMerrill account violates the First Amendment of the United States Constitution because it

imposes a viewpoint-based restriction on the Individual Plaintiffs' participation in a public forum. The First Amendment is applicable to Defendant in his official capacity pursuant to the Fourteenth Amendment.

50. Defendant's blocking of the Individual Plaintiffs from the @JohnHMerrill account violates the First Amendment of the United States Constitution because it imposes a viewpoint-based restriction on the Individual Plaintiffs' access to official statements the Alabama Secretary of State otherwise makes available to the general public.

51. Defendant's blocking of the Individual Plaintiffs from the @JohnHMerrill account violates the First Amendment of the United States Constitution because it imposes a viewpoint-based restriction on the Individual Plaintiffs' ability to petition the government for redress of grievances.

52. These violations of the First Amendment are redressable via 42 U.S.C. § 1983.

53. The plaintiffs' harm is ongoing and cannot be alleviated without injunctive relief. Defendant refuses to stop his practice of blocking users because of their political beliefs. Plaintiffs' want to stay informed about election rules, laws, and policies especially with the upcoming November 2018 elections.

54. No other remedy is available at law.

Prayer For Relief

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Declare Defendant's viewpoint-based blocking of the Individual Plaintiffs from the @JohnHMerrill account to be unconstitutional;
2. Enter an injunction requiring Defendant to unblock Individual Plaintiffs from the @JohnHMerrill account, and prohibiting Defendant from blocking the Individual Plaintiffs or others from the account on the basis of viewpoint discrimination;
3. Award Plaintiffs their costs and expenses, including reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and
4. Grant any additional relief as may be just and proper.

Respectfully submitted this 19th day of September 2018.

s/ Brock Boone
Brock Boone
Randall C. Marshall
ACLU OF ALABAMA
P.O. Box 6179
Montgomery, AL 36106-0179
(334) 265-1747
(334) 265-2754
bboone@aclualabama.org
rmarshall@aclualabama.org

Steven P. Gregory
Gregory Law Firm, P.C.
2700 Corporate Drive
Suite 200
Birmingham, AL 35242
(205) 314-4874
steve@gregorylawfirm.us

M. Virginia Buck
Attorney at Law
P.O. Box 2501
Tuscaloosa, AL 35403
(205) 752-6773
bucklaw@charter.net