

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

RANDALL L. WOODFIN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL NO. 2:25-cv-352-BL-KFP
)	OPPOSITION UNKNOWN
GOVERNOR KAY IVEY <i>et al.</i> ,)	
)	
Defendants.)	

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

WILLIAM MUHAMMAD AND)	
BRENDA LEWIS)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 2:26-cv-00292-AMM
)	
BLOUNT COUNTY, ALABAMA, <i>et al.</i> ,)	OPPOSED
)	
Defendants.)	

**DEFENDANTS' JOINT OPPOSED MOTION TO TRANSFER VENUE IN
MUHAMMAD ET AL. V. WAGGONER, ET AL. AND TO CONSOLIDATE
WOODFIN, ET AL. V. IVEY, ET AL. AND MUHAMMAD, ET AL. V. WAGGONER,
ET AL.**

The Defendants in the above-styled actions hereby respectfully file this Joint Motion to transfer *Muhammad, et al. v. Waggoner, et al.*, filed in the United States District Court for the Northern District of Alabama, Southern Division, Case No. 2:26-cv-00292-AMM,

to the United States District Court for the Middle District of Alabama so that it can be consolidated into *Woodfin, et al. v. Ivey, et al.*, filed in the United States District Court for the Middle District of Alabama, Northern Division, Case No. 2:25-cv-352-ECM. This Motion is being filed simultaneously in both *Woodfin, et al. v. Ivey, et al.* and *Muhammad, et al. v. Waggoner, et al.*¹ Consolidating these actions pursuant to Fed. R. Civ. Pro. 42 would be in the interests of justice, as follows:

1. “As between federal district courts...the general principle is to avoid duplicative litigation.” *Colorado River Water Conservation Dist. V. U.S.*, 424 U.S. 800, 817 (1976).² This principle applies the doctrine of comity to co-equal federal courts. “The proper exercise of restraint in the name of comity keeps to a minimum the conflicts between courts administering the same law, conserves judicial time and expense, and has a salutary effect upon the prompt and efficient administration of justice.” *Brittingham v. U.S.C.I.R.*, 451 F.2d 315, 518 (5th Cir. 1971). These concerns become particularly pressing when two (or more) suits seek similar declaratory and injunctive relief. *See, e.g., Kerotest Mfg. Co. v. C-O-Two Fire Equipment Co.*, 342 U.S. 180, 183 (1952) (“The Federal Declaratory Judgments Act, facilitating as it does the initiation of litigation by different parties to many-sided transactions, has created complicated problems for coordinate courts.”)

¹The deadline for Defendants to file an answer and/or a motion to dismiss pursuant to Fed. R. Civ. Pro. 12 is still pending in this case. By filing this Motion, Defendants do not waive any defense, including, but not limited to, jurisdiction or personal jurisdiction, or their right to file any motion; this Motion is instead being filed prior to a substantive response by these Defendants solely in the interest of justice.

²It is worth noting that a plaintiff is also prohibited by the doctrine of claims-splitting from filing “duplicative complaints in order to expand their legal rights.” *Vanover v. NCO Financial Services, Inc.*, 857 F.3d 833, 841 (11th Cir. 2017).

2. When “competing or parallel” litigation is filed in separate courts, the first-filed rule generally applies to require that the court that first obtained jurisdiction should hear the case. *Collegiate Licensing Co. v. American Cas. Co. of Reading, Pa.*, 713 F.3d 71, 78 (11th Cir. 2013). The second suit may be dismissed, stayed, or, if jurisdictionally possible, transferred and consolidated with the first suit. *Id.* “[T]he party objecting to jurisdiction in the first-filed forum must carry the burden of proving compelling circumstances to warrant an exception to the first-filed rule.” *Manuel v. Convergys Corp.*, 430 F.3d 1132, 1135 (11th Cir. 2005) (internal quotation omitted).

3. These cases are at least parallel, and in many ways virtually identical. Both *Woodfin, et al. v. Ivey, et al.* and *Muhammad, et al. v. Waggoner, et al.* are challenges to Ala. Code §§ 11-50-300 *et seq.*, which govern Regional Water Works Boards, as defined by Ala. Acts 2015-164 and 2025-297.

4. *Woodfin* was filed on May 6, 2025 by the Hon. Randall L. Woodfin, in his official capacity as the Mayor of the City of Birmingham and individually as a citizen and ratepayer, Birmingham City Council Members Woods, Williams, Abbott, Moore, O’Quinn, and Tate, in their official and individual capacities, Birmingham City Council Members Smitherman, Alexander, and Clarke, in their official capacities, and the City of Birmingham. (*Woodfin* Doc. 1) The operative pleading in *Woodfin* is the Amended Complaint filed June 5, 2025, against the following defendants: Gov. Kay Ivey; Lt. Gov. Ainsworth; Alabama Attorney General Steve Marshall; Jefferson County Commission President James A. (Jimmie) Stephens and the Jefferson County Commission; the Shelby County Commission; the Blount County Commission; the Walker County Commission;

the St. Clair County Commission; and all members of the newly-constituted Regional Water Board. All individuals are named only in their official capacities. (*Woodfin* Doc. 28). It alleges Act 2025-297 violates the Contracts Clauses of the Constitutions of the United States and Alabama; the Fourteenth Amendment's Due Process and Equal Protection Clauses; various unspecified actions brought under 42 U.S.C. § 1983; Ala. Const. Art. VII, §§ 173 and 175; Ala. Const. Art. XVII, § 280; Ala. Const. Art. XII, § 220; and Ala. Const. Art. IV, §§ 104, 106, and 110. (*Woodfin* Doc. 28)

5. *Muhammad* was filed on February 20, 2026, by William Muhammad and Brenda Lewis. They allege that they have been personally deprived of their “right” to sit on a five-member Water Works Board as originally envisioned prior to certain statutory amendments in 2015 and 2016. (*Muhammad* Doc. 1, pgs. 12-14) They seek to bring their action “on behalf of a class consisting of all individuals who have served, are serving, or will serve as members of the Board of the water utility system appointed pursuant to the 1999 Charter.” (*Id.*, pg. 18, ¶ 41). Muhammad and Lewis also allege that they have certain rights as individual “voters, property owners, and Investor/ratepayers who had 100% control of the governing body...that appointed all 5 of the directors of the corporation who controlled the assets of the Corporation,” a.k.a. the Birmingham City Council. (*Id.*, pg. 21, ¶ 50) They also seek certification of “a class consisting of all Investor/ratepayers and voters and property owners from the City of Birmingham.” (*Id.*, pg. 28, ¶ 79) If a class were certified, the *Muhammad* Plaintiff class would actually include the *Woodfin* Plaintiffs.

6. The defendants in *Muhammad* include State Senator Jabo Waggonner, in his individual and official capacities; former Gov. Robert Bentley, in his individual and official

capacities; Gov. Kay Ivey, in her individual and official capacities; Lt. Governor Will Ainsworth, in his official capacity; Jefferson County President James A. (Jimmie) Stephens, in his official capacity; the Shelby County Commissioners and Shelby County; and the Blount County Commissioners and Blount County. All Counsel representing the Defendants in *Muhammad* have already appeared in *Woodfin* on behalf of the same or related Defendants. The *Muhammad* plaintiffs allege violations of the Fifth and Fourteenth Amendments based on the seizure of certain “property” without due process of law; violations of the Contracts Clause; and violations of the Equal Protection Clause. (*Muhammad* Doc. 1)

7. The central substantive issue in both cases is whether the City of Birmingham and the Birmingham Water Works Board could have agreed to insulate themselves from legislative change to the Board’s structure. All Plaintiffs in both cases primarily rely on the 1999 Certificate of Amendment and Reinstatement of Certificate of Incorporation of the Water Works and Sewer Board of the City of Birmingham, which they argue is still the enforceable, applicable document that governs the structure of the Board, regardless of any subsequent legislative amendments to the enabling statutes. (*Woodfin* Doc. 29-2; *Muhammad* Doc. 1-4) All Plaintiffs in both cases also argue that the Board has been treated differently from other similarly-situated entities without sufficient justification and that the legislation is really motivated by improper racial and/or political biases (*Woodfin* Doc. 28, pg. 26, ¶ 137; *Muhammad* Doc. 1, pg. 47, ¶ 171)

8. Finally, and perhaps most importantly for the purposes of this motion, both cases seek declaratory and injunctive relief against the implementation and enforcement of

Ala. Code §§ 11-50-300 et seq., which govern Regional Water Works Boards, as defined by Ala. Acts 2015-164 and 2025-297.

9. Because *Muhammad* could have been brought in the Middle District, and because the interests of justice strongly favor transfer for the purposes of consolidation, it may be transferred to the Middle District. 28 U.S.C. § 1404.

10. Allowing *Woodfin* and *Muhammad* to proceed separately raises the possibility of conflicting rulings as to both the substance and the scope of the relief granted or denied. Separate adjudication would also waste the scarce, taxpayer-funded resources of both the Courts and, to the extent that the Parties are public entities, the Parties themselves. *Woodfin* is the first-filed case; therefore, the United States District Court for the Middle District of Alabama is the proper forum to hear the controversy. Further, from a practical perspective, extensive motions to dismiss have already been filed and fully briefed in *Woodfin*. Many of the same arguments are (unsurprisingly) applicable in *Muhammad*, which means that the Parties could simply adopt and incorporate by reference portions of the record that is already pending before the *Woodfin* Court instead of re-filing hundreds of pages of duplicative submissions.

11. Defendants' Counsel has contacted the Plaintiffs' Counsel in both the *Woodfin* and *Muhammad* litigation. Plaintiffs' Counsel in *Muhammad* has stated that the Plaintiffs in that case oppose consolidation.

12. While Counsel for Blount, St. Clair, and Walker Counties was able to briefly discuss the matter with one of the attorneys for the *Woodfin* Plaintiffs earlier today, a definitive response has not yet been received due to other obligations. This Motion is

nevertheless being filed today in light of the deadline set for Defendants' response to a Motion for Temporary Restraining Order/Motion for Preliminary Injunction of 5:00 p.m. on March 27, 2026, in *Muhammad*.

13. All Defense Counsel has reviewed this Joint Motion and given Jamie Frawley, Counsel for Defendants the Blount County Commission, the Shelby County Commission, and the Walker County Commission in *Woodfin, et al. v. Ivey, et al.* and for Defendants Blount County and the Blount County Commissioners in *Muhammad et al. v. Waggoner, et al.*, permission to file the same with their electronic signatures, as noted below.

Respectfully submitted this the 23rd day of March, 2026.

s/Jamie Helen Kidd Frawley

Jamie Helen Kidd Frawley (ASB-7661-M76H)

WEBB MCNEILL FRAWLEY, P.C.

P.O. Box 238

Montgomery, AL 36101-0238

T: (334) 262-1850

F: (334) 262-1889 – F

jfrawley@wmwfirm.com

Counsel for Defendants the Blount County Commission, the St. Clair County Commission, and the Walker County Commission in Woodfin, et al. v. Ivey, et al.; Counsel for Defendants Blount County and the Blount County Commissioners in Muhammad, et al. v. Waggoner, et al.

s/Christopher W. Weller

Christopher W. Weller

John E. Searcy, Jr.

s/James W. Davis

James W. Davis

Brenton M. Smith

Benjamin M. Seiss

OFFICE OF THE ATTORNEY

GENERAL

STATE OF ALABAMA

501 Washington Avenue

Post office Box 300152

Montgomery, Alabama 36130-0152

T: (334) 242-7300

F: (334) 353-8400

Jim.Davis@AlabamaAG.gov

Brenton.Smith@AlabamaAG.gov

Ben.Seiss@AlabamaAG.gov

Counsel for Defendants Gov. Kay Ivey, Lt. Governor Will Ainsworth, and Attorney General Steve Marshall in Woodfin, et al. v. Ivey, et al.; Counsel for Defendants Gov. Kay Ivey, Lt. Gov. Will Ainsworth, Sen. Jabo Waggoner, Sen. Dan Roberts,

W. Jackson Britton
J. Mitchell Sikes
CAPELL & HOWARD, P.C.
150 South Perry Street (36104)
Post Office Box 2069
Montgomery, AL 36102-2069
T: (334) 241-8000
F: (334) 323-8888
Chris.Weller@chlaw.com
John.Searcy@chlaw.com
Jackson.Britton@chlaw.com
Mitchell.Sikes@chlaw.com
*Counsel for Defendants James A.
("Jimmie") Stephens and the Regional
Board Defendants: Phillip Wiedmeyer,
Bill Morris, David Standridge, Jeffrey
Brumlow, and Thomas Hudson, Jr. in
Woodfin, et al. v. Ivey, et al.*

*and former Gov. Robert Bentley in
Muhammad, et al. v. Waggoner, et al.*

s/Frank C. Ellis, Jr.

Frank C. Ellis, Jr.
J. Bentley Owens, III
Grace Graham
ELLIS, HEAD, OWENS & JUSTICE
P.O. Box 587
Columbiana, Alabama 35051
T: (205) 669-6783
F: (205) 669-4932

fellis@wefhlaw.com

bowens@wefhlaw.com

ggraham@wefhlaw.com

*Counsel for Shelby County Commission in
Woodfin, et al. v. Ivey, et al.; Counsel for
Shelby County and the Shelby County
Commissioners in Muhammad, et al. v.
Waggoner, et al.*

s/Theodore A. Lawson, II

Theodore A. Lawson, II
Brent G. Grainger
OFFICE OF THE COUNTY
ATTORNEY OF JEFFERSON
COUNTY, ALABAMA
Jefferson County Courthouse
716 Richard Arrington Jr. Blvd. N.
Room 280
Birmingham, Alabama 35203
T: (205) 325-5688
F: (205) 325-5840
lawsont@jccal.org
graingerb@jccal.org
*Counsel for Defendant Jefferson County
Commission in Woodfin, et al. v. Ivey, et
al.*

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of March, 2026, I electronically filed the foregoing with the Clerk of the Court in the above-captioned cases using the CM/ECF Electronic Filing System which will send notification of such filing to the following:

Counsel for Plaintiffs in Woodfin, et al. v. Ivey, et. al

Joseph Ross Abrams
Samantha A. Chandler
Nicole Elise King
Tracy Lane Roberts
CITY OF BIRMINGHAM
OFFICE OF THE CITY ATTORNEY
710 North 20th Street
Suite 600
Birmingham, AL 35203
T: (205) 254-2369
joseph.abrams@birminghamal.gov
samantha.chandler@birminghamal.gov
nicole.king@birminghamal.gov
tracy.roberts@birminghamal.gov

David A. Sullivan
DAVID A. SULLIVAN, ATTORNEY AT LAW
208 23rd St. North
Birmingham, AL 35203
T: (205) 322-3225
dasnicole@bellsouth.net

Counsel for Plaintiffs in Muhammad, et al v. Waggoner

Calvin Grisby
LAW OFFICE OF CALVIN GRIGSBY
2406 Saddleback Drive
Danville, CA 94506
T: 415-392-4800
cgrigsby@grigsbyinc.com

Richard Rice
THE RICE LAW FIRM
115 Richard Arrington Jr. Blvd. N.

Birmingham, AL 35203
T: 205-618-8733
F: 888-391-7193
rrice@rice-lawfirm.com

Johnathon F. Austin
AUSTIN LAW, P.C.
P.O. Box 321173
Birmingham, AL 35212
T: 205-538-0169
F: 205-707-1168
austin@jaustinlawpc.com

/s/Jamie Helen Kidd Frawley
OF COUNSEL