

**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

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February 12, 2019

**MEMORANDUM TO COUNSEL OR PARTIES**

Appeal Number: 17-11009-U

Case Style: Marnika Lewis, et al v. Governor of Alabama, et al

District Court Docket No: 2:16-cv-00690-RDP

**This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.**

For the purpose of the upcoming en banc rehearing in the above referenced case, the court instructs counsel to focus their briefs on the following issues:

- 1) Whether the plaintiffs have standing under Article III of the Constitution.
- 2) Whether the Attorney of Alabama is a proper defendant under *Ex Parte Young*, 209 U.S. 123 (1908).
- 3) Whether the complaint states a claim of racial discrimination, in violation of the Equal Protection Clause, that is plausible under the pleading standard established in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Iqbal v. Ashcroft*, 556 U.S. 662 (2009).

The parties must format their briefs according to Rules 28 and 32 of the Federal Rules of Appellate Procedure. The cover of each brief shall be the color required by Rule 32 and shall contain the title "En Banc Brief." Each brief must adhere to the page and type-volume limitations of Rule 32(a)(7). **The parties must furnish 20 copies of each en banc brief and 20 copies of each brief previously submitted to the panel.** The original opening panel briefs are due by March 25, 2019. The appellants must electronically file their opening brief no more than 40 days after receiving this notice (due March 25, 2019), and the appellees must electronically file their brief no more than 30 days after the appellants file their briefs (due April 24, 2019). If the appellants choose to file a reply brief, it must be electronically filed no more than 21 days after the appellees file their brief (due May 15, 2019).

This appeal will be orally argued the week of June 24, 2019 in Atlanta, Georgia and each party will be allotted 20 minutes to present oral argument. Counsel will receive subsequent correspondence regarding the specific time of oral argument.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Jenifer L. Tubbs

Phone #: 404-335-6166

BR-1CIV Civil appeal briefing ntc issued