

IN THE
 UNITED STATES DISTRICT COURT
 FOR THE MIDDLE DISTRICT OF ALABAMA
 EASTERN DIVISION

FILED
 1968
 JCS

ANTHONY T. LEE, et al., :
 Plaintiffs, :
 UNITED STATES OF AMERICA, :
 Amicus-Curiae, :
 v. :
 MACON COUNTY BOARD OF EDUCATION, :
 HARRY D. RAYMON, Chairman, MADISON :
 DAVIS, JOHN M. DAVIS, B. O. DUKES and :
 F. E. GUTHRIE and C. A. PRUITT, :
 Superintendent of Schools of Macon :
 County, Alabama; ALABAMA STATE BOARD :
 OF EDUCATION, Governor GEORGE C. :
 WALLACE, President of Alabama State :
 Board of Education; AUSTIN R. :
 MEADOWS, Secretary and Executive :
 Officer of Alabama State Board of :
 Education; JAMES D. NETTLES, :
 J. T. ALBRITTON, J. P. FAULK, JR., :
 FRED L. MERRELL, W. M. BECK, :
 VICTOR P. POOLE, W. C. DAVIS, :
 CECIL WORD and HAROLD C. MARTIN, :
 as Members of Alabama State Board :
 of Education, :
 Defendants. :

CIVIL ACTION
 NO. 604-E

MOTION FOR LEAVE TO FILE SUPPLEMENTAL
 COMPLAINT ADDING AS PARTY DEFENDANT
 GEORGE C. WALLACE IN HIS CAPACITY AS
 GOVERNOR OF THE STATE OF ALABAMA

Plaintiffs respectfully move the Court pursuant to Rules 15(d) and 21 of the Federal Rules of Civil Procedure for leave to file the attached appended supplemental complaint, for the

following reasons:

1. Defendant George C. Wallace is presently a party defendant in this case solely in his capacity as ex officio President of the Alabama State Board of Education;

2. Since the filing of the original complaint herein, Governor George C. Wallace has committed numerous acts both in his capacity as ex officio President, and otherwise, prompting this Court in its opinion of July 13, 1964, to find that:

Since the evidence in this case is clear that Governor Wallace has acted in this unlawful interference both in his capacity as Governor and as ex officio President of the State Board of Education, the plaintiffs may, upon proper motion, be entitled to have injunctive relief run to both capacities. For the time being, however, the order as to Governor Wallace will run only as to his capacity as ex officio President of the Alabama State Board of Education, since he has been sued only in that capacity (231 F. Supp. 743, 754).

3. It was appropriate at the time of this Court's opinion, supra, and is more appropriate at this time, in light of the facts set forth in paragraph IV of the supplemental complaint attached hereto, that George C. Wallace be added as a party defendant in his capacity as Governor of the State of Alabama;

4. In this Court's order of September 30, 1966, setting plaintiffs' motion for further relief for hearing on November 30, 1966, this Court characterized the acts of defendant George C. Wallace as committed by him in a capacity other than as ex officio President of the Alabama State Board of Education;

5. In order to afford complete relief to the plaintiffs and to protect and effectuate the judgment and orders of this Court, defendant George C. Wallace should be made a party defendant in this case in his capacity as Governor of the State of Alabama;

6. Defendant Wallace has participated in these proceedings solely as ex officio President of the Alabama State Board

of Education since the filing of the supplemental complaint herein and has been duly apprised of all subsequent pleadings and orders. Therefore, plaintiffs request that this Court exercise its discretion under Rule 15(d) and not require the defendant Wallace to answer in his capacity as Governor.

WHEREFORE, plaintiffs pray the Court grant them leave to file the attached supplemental complaint against defendant George C. Wallace in his capacity as Governor of the State of Alabama and allow him to be added as a party hereto with summons to issue to bring him in that capacity before the Court.

Respectfully submitted,



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