

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

HISPANIC INTEREST COALITION
OF ALABAMA, *et al.*,

Plaintiffs,

v.

ROBERT BENTLEY, in his official capacity as
Governor of the State of Alabama, *et al.*,

Defendants.

Case Number:
5:11-cv-02484-SLB

**PLAINTIFFS' NOTICE OF SUPPLEMENTAL EVIDENCE RE:
EMERGENCY MOTION TO ENJOIN PORTIONS OF HB 56 PENDING
APPEAL**

Come now Plaintiffs, by and through undersigned counsel, and hereby submit additional evidence in support of their Emergency Motion to Enjoin Portions of HB 56 Pending Appeal (Doc. 140), which was filed on September 29, 2011. This evidence was not available at the time Plaintiffs submitted their emergency motion. The evidence documents the kinds of immediate, and irreparable, harms to the public that are already occurring as a result of the implementation of several of HB 56's provisions just two business days after this court lifted its stay. As additional governmental and private entities implement relevant provisions of HB 56 with each passing day, the types of harm will

multiply and the extent of harm will deepen.

Section 28

Section 28 requires school officials to verify and record the immigration status of children, and their parents. The Defendants have indicated that they intend to apply this provision to students who have not previously enrolled in Alabama public schools only. However, on September 30, in at least one public elementary school in Montgomery teachers asked *already enrolled* Latino students questions about their immigration status and that of their parents. *See* Decl. of Jane Doe #7, attached as Exh. 1.¹ As a result of this questioning, some parents are keeping their children out of school. *Id.* In addition, in the two business days that Section 28 has been in place, it has already resulted in substantial numbers of currently enrolled children withdrawing from Alabama public schools and of others staying home from school based on their fear that they would be subject to the new verification and recording requirements. *See* Rena Havner Philips, “Foley Elementary students, parents afraid of Alabama’s new immigration law,” *Mobile Press-Register*, Sept. 30, 2011, attached as Exh. 2 (noting that 19 Latino children

¹ Declarant Jane Doe #7 seeks to proceed anonymously in order to protect herself and her family from public harassment, intimidation, and possible violence if her name is revealed to the public through this litigation. Pursuant to the Court’s order August 12, 2011, Jane Doe #7 should be allowed to proceed anonymously. *See* Doc. 103 at 4-5. Any prejudice to defendants by Jane Doe #7 withholding her identity from the public can be easily remedied by limited discovery and protective orders. *Id.* at 5.

withdrew from school and another 39 were absent the first day Section 28 took effect); Univision Noticias.com, “Padres Temerosos en Alabama por Nueva Ley,”² Sept. 29, 2011, transcription and translation attached as Exh. 3³ (detailing that U.S. citizen and non-citizen children stayed home from public schools in Alabama because of Section 28’s implementation). In response to reports of children withdrawing from Alabama public schools and otherwise staying home out of fear of Section 28’s implementation, the State Department of Education held a press conference on September 29, 2011 to attempt to reassure families that they could still attend public schools despite the law’s new requirements. *See* Exhs. 2 and 3 (referencing press conference). Notwithstanding these efforts—and extensive efforts by Plaintiffs, their counsel, and other advocates in Alabama to make clear that children are allowed (and required) to attend school—Section 28 is having an immediate, and irreparable, impact on children: U.S. citizen and noncitizen children have not been attending elementary and secondary school out of fear.

Section 30

Plaintiffs previously submitted evidence to this Court regarding plans by municipal water authorities and probate offices to require proof of lawful immigration status in order to open or maintain water service, pursuant to Section

² The English translation is: “Parents Fearful of New Law in Alabama.”

³ Available at <http://noticias.univision.com/inmigracion/videos/video/2011-09-29/padres-temerosos-en-alabama-por>.

30. (Doc. 134.) Following the Court’s September 28th rulings allowing Section 30 to take effect, the Allgood water authority has re-posted its sign indicating that “TO BE COMPLIANT WITH THE NEW LAWS CONCERNING IMMIGRATION” water customers will need to provide specific identification documents—all of which require proof of lawful immigration status—in order to maintain water service. *See* Decl. of Dominique Nong, attached as Exh. 4 (including photograph of sign). Probate offices have also started fully enforcing the law. For example, the Montgomery Probate Office has published a notice stating:

Pursuant to the **Beason-Hammon Alabama Taxpayer and Citizen Protection Act of 2011**, effective September 29, 2011, all individuals conducting business transactions with any government office will be required to provide issuing officials proof of their United States citizenship or that they are a lawfully present alien in the United States. **This applies to ALL transactions conducted in our office. This requirement does NOT apply to Corporations, LLCs, or LLPs.**

See Montgomery Probate Office, *** *IMPORTANT NEW REQUIREMENTS — PLEASE READ* ***, attached as Exh. 5 (emphasis in original).⁴ The notice refers to “ALL transactions conducted in [their] office,” which includes activities ranging from requesting birth and death certificates to administering wills and estates.

This evidence is provided to show that Section 30 is having an immediate

⁴ *Also available* at [http://www.mc-ala.org/ElectedOfficials/ProbateJudge/Documents/Immigration Flyer.pdf](http://www.mc-ala.org/ElectedOfficials/ProbateJudge/Documents/Immigration%20Flyer.pdf).

and irreparable impact on certain classes of immigrants throughout the state and is being interpreted to apply to a wide range of services, many of which should not be considered a “business transaction.”⁵

Section 27

Private companies, including those providing essential services, have also started to refuse to enter into or renew contracts without proof of lawful status, per Section 27. For example, on September 29, 2011, Alabama Power told at least one family whose electricity had been disconnected that they could not have the power turned back on unless they could provide proof of lawful residence in the United States. *See* Decl. of Evangeline Limón at ¶ 6, attached as Exh. 6. At least some individuals are also being told they cannot renew their rental agreements if they cannot provide proof of lawful residence, and private companies have begun calling individuals they contract with to inquire into immigration status. *See id.* at ¶¶ 5, 7. Both of these examples have resulted in families being forced to leave the state. *Id.* This evidence is provided to show some of the specific examples of the many irreparable harms Section 27 is now having on immigrants throughout the state.

⁵ As noted in Plaintiffs’ Emergency Motion, Plaintiffs request this Court to, at a minimum, clarify the limited reach of Section 30 if this Court were not to enjoin it entirely during appeal. (*See* Doc. 140 at 16-17).

Dated October 2, 2011

Respectfully Submitted,

s/ Karen C. Tumlin

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CERTIFICATE OF SERVICE

I hereby certify that on October 2, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ Karen C. Tumlin