FILED
2011 Jul-20 PM 04:47
U.S. DISTRICT COURT
N.D. OF ALABAMA

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

HISPANIC INTEREST COALITION OF ALABAMA, *et al.*,	)	
Plaintiffs,	)	
	)	Civil Action No.
v.	)	5:11-cv-02484-SLB
ROBERT BENTLEY, in his official capacity as Governor of the State of Alabama, *et al.,*	)	
Defendants.	)	

MOTION FOR MORE DEFINITE STATEMENT AND TO STRIKE

Pursuant to Rules 12(e) and 12(f) of the Federal Rules of Civil Procedure, Governor Bentley, Attorney General Strange, Superintendent Morton, Chancellor Hill, and District Attorney Broussard (the State Defendants) respectfully move the Court to direct the Plaintiffs to provide a more definite statement as the *Complaint for Declaratory and Injunctive Relief*, Doc. 1, (the Complaint) is a disfavored shotgun pleading, Fed. R. Civ. P. 12(e), and to strike (or, in the alternative, direct the Plaintiffs, in providing a more definite statement, to avoid) "any redundant, immaterial, impertinent, or scandalous matter," Fed. R. Civ. P. 12(f), as set forth in detail below.

1. This litigation concerns a challenge to the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act No. 2011-535.[1]

2. It is brought by twenty four (24) Plaintiffs—half of whom are organizations and half of whom are individuals—against eleven (11) Defendants who hold office at the State, county or local level. Additionally, another dozen individuals are seeking leave to proceed using pseudonyms. *See* Doc. 2.

3. Because only two Sections of Act No. 2011-535 have taken effect as of this time, the challenge is necessarily a facial one.[2]

4. The Plaintiffs frame their challenge as directed at Act No. 2011-535 in its entirety, *see e.g.,* ¶ 2, though the Act contains a severability clause[3] and the Complaint does not assert fault with respect to each provision of the Act.[4]

---

[1] Plaintiffs refer to Act No. 2011-535 by the House Bill number assigned to the legislation while it was being considered and passed by the Alabama Legislature and before it was signed into law by Governor Bentley. Because the legislation has been enacted, the State Defendants refer to the Act number.

[2] Section 34 of Act No. 2011-535 sets out the effective dates of the various provisions of the Act. Only Sections 22 and 23 took effect immediately. Section 22 authorizes the Alabama Department of Homeland Security to "hire, appoint and maintain APOST certified [S]tate law enforcement officers" and Section 23 authorizes the Department "to coordinate with [S]tate and local law enforcement the practice and methods required to enforce this [A]ct in cooperation with federal immigration authorities and consistent with federal immigration laws."

Section 34 provides that most of the provisions of Act No. 2011-535 take effect on September 1, 2011, though there are State Constitutional reasons as to why many of these provisions might not take effect at the county or municipal level until October 1, 2011. Other provisions of the Act do not take effect until next year.

[3] Section 33 of Act No. 2011-535 provides: "The provisions of this [A]ct are severable. If any part of this [A]ct is declared invalid or unconstitutional, that declaration shall not affect the part which remains."

Motion for More Definite Statement

5. Rule 8 of the Federal Rules of Civil Procedure requires "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "Each allegation must be simple, concise, and direct." Fed. R. Civ. P. 8(d)(1).

6. In pertinent part, Rule 10(b) of the Federal Rules of Civil Procedure provides:

> A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. . . . If doing so would promote clarity, each claim founded on a separate transaction or occurrence . . . must be stated in a separate count . . . .

Fed. R. Civ. P. 10(b).

7. Applied here, Plaintiffs should have informed each of the State Defendants—and the Court—which Plaintiffs are bringing which claims against them. Moreover, each claim should have been separately set out, identifying the challenged provision in Act No. 2011-535, the federal law or theory supporting Plaintiffs' challenge, and any facts in support thereof.

8. As it is, the Complaint begins with a *Preliminary Statement*, asserts that jurisdiction exists and venue is proper, and identifies the parties. Doc. 1 at

---

[4] For instance, the Complaint contains no reference to the E-Verify requirements in Sections 9 and 15 of the Act, perhaps because of the United States Supreme Court's recent decision upholding Arizona's E-Verify requirements. *Chamber of Commerce of the United States of America v. Whiting*, 563 U.S. _____, 131 S.Ct. 1968 (2011). Similarly, the Complaint contains no reference to the voter registration provisions of Section 29 of the Act.

¶¶ 1-172. It then launches into a *Facts* section that purports to address the history and intent of Act No. 2011-535 before discussing various elements of the legislation and morphing into a brief on federal immigration law. *Id.* at ¶¶ 173-317. The Complaint next asserts that a class action is proper, *id.* at ¶¶ 318-322, and offers a sort of overview of the asserted entitlement to relief, *id.* at ¶¶ 323-337. Only then does the Complaint turn to the actual Causes of Action asserted, and it does so in a superficial and global way. *Id.* at ¶¶ 338-380. The Complaint wraps up with a broad *Prayer for Relief*. *Id.* at p. 116.

9. By "superficial and global way," we mean that each and every Cause of Action begins with the statement that "[t]he foregoing allegations are repeated and incorporated as though fully set forth herein," doc. 1 at ¶¶ 338, 343, 347, 352, 358, 363, 367, 373 and 377, and then briefly attempts to state a claim.

10. Read literally, each Cause of Action incorporates by reference the Causes of Action that come before it. *See* Doc. 1 at ¶¶ 343, 347, 352, 358, 363, 367, 373 and 377.

11. Similarly, the briefing on federal immigration law is incorporated into claims asserting violations of the Fourth Amendment, *see* doc. 1 at ¶ 343, the First Amendment, *id.* at ¶ 358, and the Contracts Clause, *id.* at ¶ 363, among others.

12. No Cause of Action identifies any particular Plaintiff as bringing it. This is problematic both to a basic understanding of the allegations and because

"[s]tanding is not dispensed in gross. Rather, a plaintiff must demonstrate standing for each claim he seeks to press and for each form of relief that is sought." *Davis v. Federal Election Com'n,* 554 U.S. 724, 734 (2008) (internal citations and quotation marks omitted).

13. No Cause of Action identifies any particular Defendant at which it is aimed. Apparently then, for example, the Plaintiffs seek to hold Superintendent Morton accountable for a Fourth Amendment violation, *see* Doc. 1 at ¶¶ 343-346, and Chancellor Hill stands accused of violating the Confrontation Clause, *id.* at ¶¶ 367-372. This cannot be.

14. Only a few Causes of Action mention which specific provision of Act No. 2011-535 is alleged to violate federal law pursuant to the theory asserted therein. So, for example, it is the "criminal provisions" which are alleged to be "impermissibly vague and overbroad," though the State Defendants are not put on notice as to which of the many "criminal provisions" – or portions thereof – are purportedly vague. Doc. 1 at ¶ 356.

15. Similarly, the Equal Protection Clause claim apparently purports to be directed at *every single provision* of Act No. 2011-535 when it alleges that the Act "impermissibly discriminates against non-citizens on the basis of alienage and against various classes of non-citizens[5] on the basis of immigration status and

[5] Which classes is not explained. *See* Doc. 1 at ¶ 349.

deprives them of equal protection of the laws" and "authorizes impermissible discrimination by Alabama [S]tate and local officers and officials on the basis of race, ethnicity, alienage, national origin and language." Doc. 1 at ¶¶ 349-350.

16. Exactly what the Plaintiffs could be claiming in these paragraphs becomes even more unclear when one considers that this is a *facial challenge* and on its face Act No. 2011-535 repeatedly and explicitly prohibits discrimination on the basis of race, color, or national origin. *See, e.g.,* Section 7(d) of Act No. 2011-535 ("An agency of this [S]tate or a county, city, town or other political subdivision of this [S]tate *may not consider race, color, or national origin in the enforcement of this section*.") (emphasis added).

17. Even more obviously, it is inconceivable that every Plaintiff could have a Confrontation Clause claim or a Compulsory Process Clause claim against every Defendant based on every provision of Act No. 2011-535, yet that is precisely what the Complaint purports to assert. *See* Doc. 1 at ¶¶ 367-376.

18. In pertinent part, Rule 12(e) provides, "A party may move for a more definite statement of a pleading to which a responsive pleading is allowed but which is so vague or ambiguous that the party cannot reasonably prepare a response." Fed. R. Civ. P. 12(e).

19. The Eleventh Circuit Court of Appeals frowns on shotgun pleadings, like this one, and has indicated that defendants facing them should rely on Rule

12(e) to put a quick end to them.[6] *Cf. Byrne v. Nezhat*, 261 F.3d 1075, 1128 (11th Cir. 2001) ("The complaints in this case were 'so vague and ambiguous that [the defendants] [could] not reasonably be required to frame a responsive pleading.' None of the defendants, however, moved the court to order the plaintiff to file a more definite statement; instead, the defendants simply answered the complaints.").

20. "The unacceptable consequences of shotgun pleading are many. First, and perhaps foremost, shotgun pleading inexorably broadens the scope of discovery, much of which may be unnecessary." *Davis v. Coca-Cola Bottling Co. Consol.*, 516 F.3d 955, 981 (11th Cir. 2008) (footnote omitted). This is because—when a defendant fails to move for a more definite statement—a shotgun Complaint can lead to a shotgun Answer, and "[s]uch disjointed pleadings make it difficult, if not impossible, to set the boundaries for discovery." *Byrne*, 261 F.3d at 1129.

21. "Second, in addition to delaying a just disposition of the case at the undue expense of one or both of the parties, shotgun pleadings, if tolerated by the court, lessen the time and resources the court has available to reach and dispose of the cases and litigants waiting to be heard." *Davis*, 516 F.3d at 982 (footnote

---

[6] Shotgun pleadings contain "a long list of general allegations, most of which are immaterial to most of the claims for relief," and which "are incorporated by reference into each count of the complaint." *Johnson Enterprises of Jacksonville, Inc. v. FPL Group, Inc.*, 162 F.3d 1290, 1333 (11th Cir. 1998).

omitted); *see also Byrne*, 261 F.3d at 1131 ("Shotgun pleadings, if tolerated, harm the court by impeding its ability to administer justice. The time a court spends managing litigation framed by shotgun pleadings should be devoted to other cases waiting to be heard.").

22. "Third, shotgun pleadings wreak havoc on appellate court dockets." *Davis*, 516 F.3d at 982. When litigation involves "nebulous pleadings" which "the district court[fails] to strip the case down [to] identify each claim and defense," then the Eleventh Circuit may "ha[ve] to undertake that task from scratch." *Davis*, 516 F.3d at 982.

23. "Fourth, the mischief shotgun pleadings causes undermines the public's respect for the courts – the ability of the courts to process efficiently, economically, and fairly the business placed before them." *Davis*, 516 F.3d at 983 (footnote omitted).[7]

24. The Eleventh Circuit has also recognized, "Lawyers being compensated by the hour may have little incentive to curb the use of shotgun pleadings and the discovery disputes that inevitably result." *Byrne*, 261 F.3d at 1129 n. 103.[8]

---

[7] The *Davis* Opinion includes a fifth attack on shotgun pleadings, but it is specific to Title VII cases and, therefore, inapplicable here. *See Davis*, 516 F.3d at 983.

[8] On this point, we note that there are in excess of twenty lawyers appearing for Plaintiffs and counsel seeks fees pursuant to 42 U.S.C. § 1988. Doc. 1 at p. 116.

25. For all of these reasons, this Court should direct the Plaintiffs to re-plead their Complaint in compliance with Rules 8 and 10, as informed by Rule 12(e) and the Eleventh Circuit's aversion to shotgun pleadings.

26. In doing so, the Plaintiffs should necessarily be forced to clearly state their exact causes of action, the Plaintiffs asserting each one, the Defendants accused in each one, the legal grounds for each, and any relevant factual support.

27. This may well lead to a situation where the amended complaint seems to include more claims than the current Complaint, when in fact it only sets out the claims with more clarity. For example, Count Five is labeled "First Amendment; 42 U.S.C. § 1983" and seems to include a Speech claim aimed at one provision of Act No. 2011-535 and a Petition Clause claim aimed at a separate, unidentified provision of the Act. From all that has been said, it should be obvious that these are separate claims and should be so delineated. *See* Fed. R. Civ. P. 10(b) ("If doing so would promote clarity, each claim founded on a separate transaction or occurrence . . . must be stated in a separate count . . . .").

28. The State Defendants, the Court, and the public would all benefit from a tight, logical Complaint that clearly sets out the Plaintiffs' attacks on Act No. 2011-535.

Motion to Strike

29. Turning from the motion for a more definite statement to the motion to strike, Rule 12(f) provides that on motion or *sua sponte* a "court may strike from a pleading . . . any redundant, immaterial, impertinent, or scandalous matter." Fed. R. Civ. P. 12(f). A court may strike such matter *sua sponte* or on motion. *Id.*

30. To some extent, it may not be possible to identify every matter appropriately stricken given that the Complaint is vague and ambiguous, as set out above, such that it is not always clear whether a particular statement is immaterial. Nonetheless, there are an abundance of readily identifiable improper statements. Many of these are set out in detail below, but the omission of any statement below is not intended as an admission by the State Defendants that the statement is proper or otherwise not subject to being stricken.

31. To begin, the *Preliminary Statement* reads like a press release. Doc. 1 at ¶¶ 1-6. It is full of speculation and to the extent, if any, that it sheds light on the Plaintiffs' claims, it is redundant of properly pled causes of action.

32. The allegation that Act No. 2011-535 "is reminiscent of the worst aspects of Alabama's history in its pervasive and systematic targeting of a class of persons through punitive [S]tate laws that seek to render every aspect of daily life more difficult and less equal," doc. 1 at ¶ 1, is particularly impertinent and scandalous, and should be stricken.

33. Similarly, portions of the *Declaratory and Injunctive Relief* section are redundant of properly pled causes of action. Paragraphs 328 through 332 seem to tie some Plaintiffs to some claims, in a manner that suggests the State Defendants and this Court should connect the dots themselves.

34. The Complaint's repeated references to immigration laws passed by other States and how Courts evaluating those laws have ruled are immaterial. Doc. 1 at ¶ 1, 211, 215, 235, 244. Of course, in briefing the issues, the Plaintiffs may refer to case law from other jurisdictions to the extent that it is applicable and for whatever persuasive value it may have. As to the Complaint, however, these matters do nothing to set out "a short and plain statement of the claim," Fed. R. Civ. P. 8(a)(2); they are immaterial and should be stricken.

35. Likewise, statements about the Plaintiffs' political views and motivations for bringing the litigation are immaterial and should be be stricken. Doc. 1 at ¶¶ 38 ("The Joint Board joins this lawsuit to preserve its ability to organize new members and to protect the rights and interests of its members and prospective members."); 62 (Plaintiff Webster is a Republican); 67 ("Plaintiff Webster believes immigration reform is necessary, but that this needs to happen at the federal level, and laws like HB 56 [*sic*] are counterproductive and incredibly punitive to immigrants in Alabama."); 123 (Jane Doe #3 "is offended that the law would criminalize her family life.").

36. Statements about the Plaintiffs' fears as to how Act No. 2011-535 will be implemented, and the speculations of Plaintiffs and/or their counsel, are immaterial and due to be stricken; this is a facial challenge and the question is whether the Act violates federal law on its face, not as-applied in the mind of any Plaintiff or lawyer. Doc. 1 at ¶¶ 3, 4, 5, 13 (final sentence speculating that individuals will be deterred from reporting crimes); 19 (second and third sentences speculating about reluctance to interact with Plaintiff AAC and frustration of AAC's efforts); 26 (Plaintiff ITAA's members "could be forced . . . ."); 27 (Plaintiff ITAA's members may be required to disclose immigration status of clients and "fear that they will lose clients"); 34 (speculating about the impact of implementation of Act No. 2011-535 on members of Plaintiff organizations and how that will impact the organizations, as well as on how members will react); 36 (speculating about how employers will react, thereby impacting Plaintiff organization membership); 37 (speculating that "people will be afraid to associate with someone whose racial/ethnic appearance will increase the risk that the driver will be stopped for a minor traffic offense, leading to further police scrutiny and possible criminal prosecution under the law"); 39 (speculating about contracts that the Plaintiff organization "could be prohibited from enforcing"); 44 ("the UFCW Unions fear that HB 56 [*sic*] . . . will deter employees" from engaging in various activities because said employees will fear discriminatory treatment); 45 (UFCW

Unions "fear that lawyers" they use "will feel pressured"); 50 (DreamActivist's "younger members will be afraid to enroll in public elementary or secondary school"); 51(DreamActivist's members "will leave the [S]tate" or "be too afraid to attend DreamActivist events"); 54 (Plaintiff organization fears prosecution); 55 (Plaintiff organization's members fear prosecution); 56 (Plaintiff organization's members fear children will not be able to attend school because enrollment could lead to detainment and deportation); 65 (". . . Plaintiff Webster fears how the law will affect the many Hispanics living in Alabama, and particularly how it will affect his two sons"); 66 ("Plaintiff Webster also fears what will happen to his children at school when he is required to enroll them and disclose their status."); 70 (Plaintiff Zamora "fears that" she will be stopped by police who "will not understand that the federal immigration agency is aware of her presence in the country and that she is permitted to remain in the [US]"); 71 (Plaintiff Zamora "fears racial profiling" as well as "unlawful interrogation and detention"); 76 ("Plaintiff Long is concerned that HB 56 [*sic*] will require her to disclose . . . ."); 83, 84 & 86 (Plaintiff Thau "in concerned" about criminal prosecution); 85 (Plaintiff Thau knows people who are afraid); 87 (Plaintiff Thau is concerned about school enrollment and school reactions to the law); 99 (Plaintiff Upton fears criminal prosecution); 108 (Plaintiff Cummings "believes that [Act No. 2011-535 will deter individuals from renting her properties and cause her business to

suffer”); 113 (Plaintiff Jane Doe # 1 “is concerned” about police reaction and “fears they will not understand”); 115 (Plaintiff Jane Doe # 1 is concerned about the impact that the law will have on her family and asserts that her daughter is “traumatized”); 118 (assuming discriminatory implementation of the law); 120 (concern about enrollment and how a potential decision to home school will impact family finances); 125 (concern about husband’s death and impact thereof on enforcement of contract); 136 (“Jane Doe #5 will also have difficulty finding friends who are documented who are willing to help her family . . . .”); 146 (“fearful of . . . what will happen to him if he is ever stopped by a police officer”); 148 (“Plaintiff John Doe #2 is deeply concerned that HB 56 [*sic*] will undermine his children’s ability to pursue their educations.”); 150 (“fears prosecution”); 154 (fear of racial profiling); 162 (“worried that he will be targeted, harassed, and potentially arrested”); 165 (“fears that police will target and arrest him”); 196 (detentions will be “prolonged”); 197 & 208 (the “immigration verification process” will be “lengthy and intrusive”); 201 (“police encounters” will be “unreasonably prolong[ed]”); 202 (speculating about the impact of the law on federal authorities); 204, 205 & 209 (speculating about racial profiling); 210 (speculating about how persons will respond to the police); 249 (“The effect of Section 27 will be to . . . .”); 312 (speculating about “inevitably . . . different[]” interpretations by various government officials “leading to a patchwork of

enforcement even within Alabama"). Should Plaintiffs wish to amend their Complaint to challenge Act No. 2011-535 once the law is effective, this Court may allow an amendment to include actual, rather than speculative, facts, which the Plaintiffs will shoulder the burden of proving.[9]

37. Repeatedly the Complaint muses about the inconvenience to certain organizational Plaintiffs of having to dedicate resources to helping persons understand Act No. 2011-535. Doc. 1 at ¶¶ 18 (third, fourth, and fifth sentences); 23 (final three sentences); 29; 38 (first two sentences); 45 (first and second sentence); 61. This is not a legally cognizable injury and appears to be immaterial to any Cause of Action, *see* Doc. 1 at ¶¶ 338-380, though we recognize that the Complaint does mention this "thwart[ing of] the missions" of certain organizational Plaintiffs in the *Declaratory and Injunctive Relief* section, *id.* at ¶ 333. If a Cause of Action is not intended, the statements are immaterial and due to be stricken. If a Cause of Action is intended, the State Defendants will have the opportunity to address the same in a future motion.

38. Relatedly, the concerns of the Greater Birmingham Ministries as to reduced membership or support based on Act No. 2011-535 and GBM's public opposition thereto are immaterial and speculative. Doc. 1 at ¶¶ 57-58.

[9] The State Defendants recognize, of course, that the various speculative statements in the Complaint may be addressed through a motion to dismiss once the statements have been meaningfully tied to claims *if* it is revealed that the claims themselves are not ripe or that the Plaintiffs lack standing. Nonetheless, speculative statements are as out-of-place in a properly pled Complaint as speculative claims.

39. And Plaintiff Barber's concerns that a change in the law will impact his law practice cannot possibly state a claim and are, therefore, immaterial. Doc. 1 at ¶ 94.

40. Plaintiff Jane Doe #6 is not allowed to assert the injuries of a third party (her son) as her own, and accordingly paragraphs 139 and 141 are immaterial. For the same reason, Plaintiff John Doe #2's concerns about his children's education are immaterial to a Complaint not brought by him on their behalf. Doc. 1 at ¶ 148.

41. That the Attorney General is the State's lawyer is immaterial to his suitability as a defendant in this litigation and, therefore, immaterial. Doc. 1 at ¶ 167 (second sentence).

42. The *Facts* section of the Complaint contains a sub-section labeled *History and Intent of HB 56* [*sic*]. Doc. 1 at ¶¶ 173-193. This sub-section is replete with quotations attributed to individual legislators which are apparently intended by the Plaintiffs to definitively characterize the intent of the Alabama Legislature as whole. It is not at all clear that the intent of the Alabama Legislature is in any way relevant to any claim asserted by the Plaintiffs; if it is not, the statements are due to be stricken as immaterial. In the event that the intent of the

Alabama Legislature is relevant, it is highly doubtful that it can be proven by the hand-selected statements of a few legislators.[10]

43. The statement that the "[S]tate deems [persons] to be unworthy of continued residence", Doc. 1 at ¶ 195, is impertinent and scandalous. It is the federal government that has made a determination that certain persons may not lawfully reside in this country, and it has done so pursuant to its Constitutional and inherent sovereign authority.

44. Paragraph 198 asserts that Act No. 2011-535 is a change of policy and "undermines [certain S]tate priorities." Since, as a sovereign, the State of Alabama has every right to change its policies and set its own priorities, which it may also change at leisure, this paragraph is immaterial.

45. The statement that Act No. 2011-535 "encourag[es] and authoriz[es] racial profiling," doc. 1 at ¶ 316, *see also id.* at 204, 205 & 209, is not only speculative but also impertinent and scandalous in light of the fact that this is a

[10] *Cf. U.S. v. O'Brien*, 391 U.S. 367, 383-84 (1968) ("Inquiries into congressional motives or purposes are a hazardous matter. When the issue is simply the interpretation of legislation, the Court will look to statements by legislators for guidance as to the purpose of the legislature, because the benefit to sound decision-making in this circumstance is thought sufficient to risk the possibility of misreading Congress' purpose. It is entirely a different matter when we are asked to void a statute that is, under well-settled criteria, constitutional on its face, on the basis of what fewer than a handful of Congressmen said about it. *What motivates one legislator to make a speech about a statute is not necessarily what motivates scores of others to enact it*, and the stakes are sufficiently high for us to eschew guesswork. We decline to void essentially on the ground that it is unwise legislation which Congress had the undoubted power to enact and which could be reenacted in its exact form if the same or another legislator made a 'wiser' speech about it.") (footnote omitted; emphasis added); *Eagerton v. Terra Resources, Inc.*, 426 So.2d 807, 809 (Ala. 1982) ("The motives or reasons of an individual legislator are not relevant to the intent of the full legislature in passing the bill.")

facial challenge and the law states on its face that discrimination on the basis of race, color, or national origin is expressly prohibited. *See, e.g.,* Section 7(d) of Act No. 2011-535 ("An agency of this [S]tate or a county, city, town or other political subdivision of this [S]tate *may not consider race, color, or national origin in the enforcement of this section*.") (emphasis added).

46. For these reasons, the Court should strike (or, in the alternative, direct the Plaintiffs, in providing a more definite statement, to avoid) the "redundant, immaterial, impertinent, or scandalous matter," Fed. R. Civ. P. 12(f), in the Complaint.

Respectfully submitted,

LUTHER STRANGE (ASB-0036-G42L)
Attorney General

BY:

s/Misty S. Fairbanks
Margaret L. Fleming (ASB-7942-M34M)
Winfield J. Sinclair (ASB-1750-S81W)
James W. Davis (ASB-4063-I58J)
Misty S. Fairbanks (ASB-1813-T71F)
William G. Parker, Jr. (ASB-5142-I72P)
Assistant Attorneys General

OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, Alabama 36130-0152
Telephone: 334.242.7300
Facsimile: 334.353.8440
mfleming@ago.state.al.us
wsinclair@ago.state.al.us
jimdavis@ago.state.al.us
mfairbanks@ago.state.al.us
wparker@ago.state.al.us

Attorneys for Governor Bentley, Attorney General Strange, Superintendent Morton, Chancellor Hill, and District Attorney Broussard

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 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 the following:

Counsel for Plaintiffs

Mary Bauer
Samuel J. Brooke
SOUTHERN POVERTY LAW CENTER
400 Washington Ave.
Montgomery, Alabama 36104
Telephone: 334.956.8200
Facsimile: 334.956.8481
mary.bauer@splcenter.org
sam.brooke@splcenter.org

Cecilia D. Wang
Katherine Desormeau
Kenneth J. Sugarman
AMERICAN CIVIL LIBERTIES UNION
39 Drumm Street
San Francisco, California 94111
Telephone: 415.343.0775 Wang
415.343.0778 Desormeau
415.343.0777 Sugarman
Facsimile: 415.395.0950
cwang@aclu.org
kdesormeau@aclu.org
irp_ks@aclu.org

Sin Yen Ling
ASIAN LAW CAUCUS
55 Columbus Avenue
San Francisco, California 94111
Telephone: 415.896.1701 ext. 110
Facsimile: 415.896.1702
sinyenL@asianlawcaucus.org

Michelle R. Lapointe
Naomi Tsu
Daniel Werner
SOUTHERN POVERTY LAW CENTER
233 Peachtree St., NE, Suite 2150
Atlanta, Georgia 30303
Telephone: 404.521.6700 Lapointe & Werner
404.221.5846 Tsu
Facsimile: 404.221.5857
michelle.lapointe@splcenter.org
naomi.tsu@splcenter.org
daniel.werner@splcenter.org

Erin E. Oshiro
ASIAN AMERICAN JUSTICE CENTER
1140 Connecticut Ave., NW, Suite 1200
Washington, DC 20036
Telephone: 202.296.2300
Facsimile: 202.296.2318
eoshiro@advancingequality.org

G. Brian Spears
G. BRIAN SPEARS PC
1126 Ponce de Leon Avenue
Atlanta, Georgia 30306
Telephone: 404.872.7086
Facsimile: 404.892.1128
bspears@mindspring.com

Ben E. Bruner
BRUNER LAW FIRM
1904 Berryhill Road
Montgomery, Alabama 36117
Telephone: 334.201.0835
brunerlawfirm@gmail.com

Andre Segura
Elora Mukherjee
Omar C. Jadwat
Lee Gelernt
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: 212.549.2676 Segura
212.549.2664 Mukherjee
212.549.2620 Jadwat
212.549.2616 Gelernt
Facsimile: 212.549.2654
asegura@aclu.org
emukherjee@aclu.org
ojadwat@aclu.org
lgelernt@aclu.org

Linton Joaquin
Karen C. Tumlin
Vivek Mittal
NATIONAL IMMIGRATION LAW CENTER
3435 Wilshire Boulevard, Suite 2850
Los Angeles, California 90010
Telephone: 213.639.3900
Facsimile: 213.639.3911
joaquin@nilc.org
tumlin@nilc.org
mittal@nilc.org

Tanya Broder
NATIONAL IMMIGRATION LAW CENTER
405 14th Street, Suite 1400
Oakland, California 94612
Telephone: 510.663.8282
Facsimile: 510.663.2028
broder@nilc.org

Freddy Rubio
RUBIO LAW FIRM, P.C.
438 Carr Avenue, Suite 1
Birmingham, Alabama 35209
Telephone: 205.443.7858
Facsimile: 205.433.7853
frubio@rubiofirm.com

Herman Watson, Jr.
Eric J. Artrip
Rebekah Keith McKinney
WATSON, MCKINNEY & ARTRIP, LLP
203 Greene Street
Post Office Box 18368
Huntsville, Alabama 35801
Telephone: 256.536.7423
Facsimile: 256.536.2689
watson@watsonmckinney.com
artrip@watsonmckinney.com
mckinney@watsonmckinney.com

Counsel for Co-Defendants

Donald B. Sweeney, Jr.
BRADLEY ARANT BOULT CUMMINGS LLP
One Federal Place
1819 Fifth Avenue North, Seventh Floor
Post Office Box 830709
Birmingham, Alabama 35283-0709
Telephone: 205.521.8000
Facsimile: 205.488.6275
dsweeney@babc.com

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Counsel for Plaintiffs

Andrew H. Turner
SOUTHERN POVERTY LAW CENTER
400 Washington Ave.
Montgomery, Alabama 36104
Telephone: 334.956.8200
Facsimile: 334.956.8481
andrew.turner@splcenter.org

Michael K.T. Tan
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: 212.549.7303

Co-Defendants for whom Counsel has not yet entered a Notice of Appearance

E. Casey Wardyndki
Superintendent, Huntsville City Schools
200 White Street
Huntsville, Alabama 35801

Jamie Blair
Superintendent, Vestavia Hills City Schools
1204 Montgomery Highway
Vestavia Hills, Alabama 35216

Charles D. Warren
Superintendent, DeKalb County Schools
306 Main Street West
Rainsville, Alabama 35986-1668

Barbara W. Thompson
Superintendent, Montgomery Public Schools
307 South Decatur Street
Montgomery, Alabama 36104

Jeffrey E. Langham
Superintendent, Elmore County Schools
100 H.H. Robison Drive
Wetumpka, Alabama 36092

Additionally, a courtesy copy of this pleading is being sent by email to the following, whom we have been informed will represent the non-State Defendants:

J.R. Brooks, Jr.
LANIER FORD SHAVER & PAYNE, P.C.
Post Office Box 2087
Huntsville, Alabama 35804-2087
Telephone: 256.535.1100
Facsimile: 256.533.9322
jrb@lfsp.com

s/Misty S. Fairbanks
Margaret L. Fleming (ASB-7942-M34M)
Winfield J. Sinclair (ASB-1750-S81W)
James W. Davis (ASB-4063-I58J)
Misty S. Fairbanks (ASB-1813-T71F)
William G. Parker, Jr. (ASB-5142-I72P)
Assistant Attorneys General

OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, Alabama 36130-0152
Telephone: 334.242.7300
Facsimile: 334.353.8440
mfleming@ago.state.al.us
wsinclair@ago.state.al.us
jimdavis@ago.state.al.us
mfairbanks@ago.state.al.us
wparker@ago.state.al.us

Attorneys for Governor Bentley, Attorney General Strange, Superintendent Morton, Chancellor Hill, and District Attorney Broussard