

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

CENTRAL ALABAMA FAIR HOUSING
CENTER;

FAIR HOUSING CENTER OF NORTHERN
ALABAMA;

CENTER FOR FAIR HOUSING, INC.; and

JOHN DOE #1 and JOHN DOE #2, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

JULIE MAGEE, in her official capacity as
Alabama Revenue Commissioner, and

WILLIAM HARPER, in his official capacity
as Elmore County Revenue Commissioner,

Defendants.

Civil Action File No.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF
AND FOR DAMAGES**

CLASS ACTION

NATURE OF THE ACTION

1. This is a civil rights action for declaratory and injunctive relief brought by Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, Center for Fair Housing, Inc., John Doe #1, and John Doe #2 for violations of the federal Fair Housing Act, 42 U.S.C. § 3601 et seq., and the Supremacy Clause and Due Process Clause of the U.S. Constitution.

2. Plaintiff John Doe #1 is an undocumented immigrant from Mexico. He owns and resides in a manufactured home in Elmore County, Alabama, along with his partner, five-year-old U.S.-citizen son, and sixteen-year-old nephew.

3. Plaintiff John Doe #2 is an undocumented immigrant from Mexico. Like Plaintiff Doe #1, Plaintiff Doe #2 owns and resides in a manufactured home in Elmore County, along with his partner, his five-year-old U.S.-citizen son, and his partner's parents and three brothers.

4. This action is brought against Defendant Julie Magee in her official capacity as Alabama Revenue Commissioner and Defendant William Harper in his official capacity as the Revenue Commissioner of Elmore County, Alabama.

5. Section 30 of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Laws 535 (commonly referred to as "HB 56"), forbids "[a]n alien not lawfully present in the United States" from entering into or attempting to enter into "any transaction . . . [with] the state or a political subdivision of the state," with the sole exception of obtaining a marriage license.¹ It further forbids any person from entering into or attempting to enter into such a transaction on behalf of an "alien not lawfully present in the United States." An individual found in violation of Section 30 can be convicted of a Class C felony and subjected to up to ten years' imprisonment.

6. Section 40-12-255 of the Alabama Code requires that all individuals who own, maintain, or keep a manufactured home in Alabama engage in a "transaction" with the State, within the meaning of Section 30 of HB 56. Specifically, by no later than November 30 of each calendar year, any such person must pay an annual registration fee and display a current identification decal in a conspicuous location on the outside of her manufactured home. Section 40-12-255 imposes progressive fines and penalties for non-compliance, including imprisonment.

¹ A copy of the enrolled Bill is attached as Attachment 1. HB 56 has not been codified yet but is unofficially reported in electronic databases at Ala. Code § 31-13-1 *et seq.* (West 2011) and Ala. Code § 31-9C-1 *et seq.* (Michie/LexisNexis 2011).

7. Defendants Magee and Harper have adopted and implemented a policy, pursuant to the requirements of Section 30 of HB 56, to reject annual manufactured home registration payments from, and thus deny identification decals to, individuals who are unable to demonstrate U.S. citizenship or lawful immigration status. In other words, Defendants' policy treats the act of complying with Alabama Code § 40-12-255 as a "business transaction" under HB 56 Section 30.

8. Until the passage and implementation of Section 30 of HB 56, Plaintiffs Doe #1 and Doe #2 were allowed to register their manufactured homes pursuant to Alabama Code Section 40-12-255.

9. Defendants' policy for enforcing HB 56 Section 30 makes it impossible for Plaintiffs Doe #1 and Doe #2 to make the annual registration payment and obtain current identification decals for their manufactured homes, as they are required to do under Alabama Code Section 40-12-255 by no later than November 30, 2011. If Plaintiffs Doe #1 and Doe #2 attempt to pay their annual registration fees in order to obtain current identification decals, they could face Class C felony charges for attempting to enter into a transaction with the State, in violation of HB 56 Section 30. But if Plaintiffs Doe #1 and Doe #2 do not pay the annual registration fee and do not display a current identification decal by November 30, 2011, they will face fines, penalties, and Class C misdemeanor charges for violating the Manufactured Homes statute, Alabama Code Sec. 40-12-255.

10. Defendants' policy of enforcing HB 56 Section 30 further makes it impossible for Plaintiffs Doe #1 and Doe #2 to move their manufactured homes on public roads in Alabama. Under subsection (j) of the Manufactured Homes Statute, a permit is required to make such a move, yet any effort to obtain a moving permit would also constitute a "business transaction"

within the meaning of Section 30 of HB 56. Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor under Alabama Code Section 40-12-255(j)(4).

11. Section 27 of HB 56 makes unenforceable in Alabama courts virtually any contract that takes more than 24 hours to complete and is entered into where the parties know or should have known that one of them is a non-U.S. citizen who lacks proof of lawful immigration status.

12. In the event of eviction from the manufactured home parks where they currently reside, Plaintiffs Doe #1 and Doe #2 may therefore be forced to abandon their homes because under HB 56 they cannot lawfully move them, and any sale contract may be unenforceable.

13. Plaintiffs Doe #1 and Doe #2 bring this case on behalf of themselves and a Class of similarly situated residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

14. Plaintiffs Doe #1 and Doe #2 also bring this case on behalf of themselves and a Subclass of similarly situated Latino residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

15. Defendants' policy of enforcing Section 30 so as to refuse annual registration payments from and to deny manufactured home identification decals to individuals who cannot demonstrate U.S. citizenship or lawful immigration status will cause immediate and irreparable harm to Plaintiffs Doe #1 and Doe #2 and their families, as well as to similarly situated individuals who own, maintain, or keep manufactured homes in Alabama.

16. Defendants' policy of enforcing Section 30 so as to refuse to accept annual registration payments from, and to deny manufactured home identification decals to, members of

the Class and Subclass has injured and will continue to injure organizational Plaintiffs Central Alabama Fair Housing Action Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc. These Plaintiffs have already diverted and will be forced to continue to divert scarce resources away from their core activities in order to conduct education, outreach, and advocacy on behalf of communities throughout Alabama concerning the impact of HB 56 Section 30 on immigrants who live in manufactured homes and who face fines, penalties, and the threat of criminal prosecution if they cannot pay their annual registration fees and receive the required identification decals.

17. Defendants' policy pursuant to HB 56 of refusing annual registration payments from and denying current identification decals to individuals who live in manufactured homes and who cannot show proof of U.S. citizenship or lawful immigration status violates the Fair Housing Act, the Supremacy Clause of the U.S. Constitution, and the Due Process Clause of the U.S. Constitution.

JURISDICTION AND VENUE

18. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(a)(4), 2201, 2202, and 42 U.S.C. § 3613(a)(1)(A).

19. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 81 and 1391(b). Defendant Magee and Defendant Harper reside in this State; Defendant Harper is employed in this District and Division as a County official; and Defendant Magee is employed in this District and Division as a State official. A substantial part of the events and omissions giving rise to Plaintiffs' claims have occurred and/or will occur in this District and Division.

PARTIES

Organizational Plaintiffs

20. The three organizational Plaintiffs collectively provide fair housing services in nearly every county within Alabama. Their core activities include advocating for equal housing opportunities, assisting victims of housing discrimination, and enforcing compliance with the federal Fair Housing Act and related fair housing laws.

21. **Plaintiff Central Alabama Fair Housing Center** (“CAFHC”) is an Alabama non-profit corporation, with its principal place of business in Montgomery, Alabama. Founded in 1995, CAFHC’s mission is to promote understanding of the Fair Housing Act and to enforce the Fair Housing Act. It advances that mission through educational activities including speaking to community groups and individuals most likely to experience housing discrimination, training housing providers in fair housing issues, and conducting intake and investigations.

22. Plaintiff CAFHC provides fair housing services in the following Alabama Counties: Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Greene, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Sumter, Tallapoosa, and Wilcox.

23. **Plaintiff Fair Housing Center of Northern Alabama** (“FHCNA”) is an Alabama non-profit corporation, with its principal place of business in Birmingham, Alabama. Plaintiff FHCNA was founded in 1993. Its mission is the elimination and eradication of housing discrimination through education and enforcement activities. FHCNA seeks to ensure that all individuals who seek housing are given fair and equal access to housing of their choice. In furtherance of this mission, Plaintiff FHCNA hosts public seminars for housing providers and

community members, engages in outreach activities, undertakes investigations, and files administrative complaints. Plaintiff FHCNA provides fair housing services in the following Alabama Counties: Blount, Calhoun, Cherokee, Colbert, Cullman, DeKalb, Etowah, Fayette, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker, and Winston.

24. **Plaintiff Center for Fair Housing, Inc.** (“CFH”) is an Alabama non-profit corporation, founded in 1998, with its principal place of business in Mobile, Alabama. CFH’s mission is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants’ rights, and fair lending practices, in order to promote healthier and more inclusive communities. Plaintiff CFH provides these fair housing services in the following Alabama Counties: Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

Individual Plaintiffs

25. **Plaintiff John Doe #1** resides in Elmore County in a manufactured home that he owns. He lives with his partner and five-year-old son, who is a U.S. citizen. Plaintiff Doe #1 is originally from Mexico and came to the United States approximately eight years ago. He rents a lot for his manufactured home in Elmore, Alabama.

26. **Plaintiff John Doe #2** resides in Elmore County in a manufactured home that he owns. Plaintiff Doe #2 came to the United States from Mexico in 2002. He rents a lot for his manufactured home in Millbrook, Alabama, where he lives with his partner, their five-year-old son, and his partner’s parents and three brothers. Plaintiff Doe #2’s son is a U.S. citizen.

Defendants

27. **Defendant Julie Magee** is the Revenue Commissioner for the State of Alabama. As the head of the Alabama Department of Revenue, she is charged with carrying out the duties of the Department, which by Alabama law include “general and complete supervision and control of,” *inter alia*, “the collection of all property, privilege, license, excise, intangible, franchise, or other taxes for the state and counties.” Ala. Code § 40-2-11(1). Defendant Magee is responsible for supervising and directing the work of all state and county officials who are charged with the assessment and collection of taxes, including the manufactured home registration fee at issue in this case. She is sued in her official capacity.

28. **Defendant William Harper** is the Revenue Commissioner for Elmore County, Alabama. He is responsible for collecting payments and issuing manufactured home registration decals to manufactured home owners who reside in Elmore County. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. Alabama’s Manufactured Homes Statute

29. In Alabama, a “manufactured home” is subject to the requirements of Section 40-12-255 of the Alabama Code. Section 40-12-255(a) requires that any “person, firm, or corporation who owns, maintains, or keeps . . . a manufactured home” pay an annual registration fee and an issuance fee in order to obtain a current identification decal. The identification decal, which is designed and issued by the Alabama Department of Revenue, is color-coded to indicate the year in which it was issued and must be displayed on the outside of the manufactured home at eye level, so as to be “clearly visible from the street.” *Id.*

30. Under Alabama law, the County official with responsibility for collecting taxes and other assessments has the duty to collect the annual manufactured home registration fees, to issue identification decals, and to impose fines and penalties for late payments. In Elmore County, Defendant Harper is the County official who is assigned these responsibilities.

31. The registration fee and issuance fee are due on October 1 of each year and are considered delinquent if not paid by November 30 of each year. An individual who fails to pay the registration fee and issuance fee by November 30 will be fined a \$10 delinquent fee and a \$15 citation fee. An additional penalty is imposed if the delinquent fee and citation fee are not paid within 15 days of the first citation. Ala. Code § 40-12-255(b). An individual cannot obtain a current identification decal for his or her manufactured home until all outstanding fees and penalties have been satisfied.

32. In addition to the fines and penalties identified above in Paragraph 31, an individual who violates any provision of Section 40-12-255 is guilty of a Class C misdemeanor. Ala. Code § 40-12-255(l). Under Alabama law, a Class C misdemeanor is punishable with a three-month jail term, in addition to a fine of at least \$50 and up to \$500. *Id.*; §§ 13A-5-7 and 13A-5-12.

33. In order to obtain a permit to move a manufactured home on public roads in Alabama, a manufactured home owner must obtain a permit from the County official who administers the manufactured home registration laws in the County where the manufactured home is currently being kept. Proof of payment of the current registration fee, as well as any outstanding fines and penalties, is required to obtain a moving permit. Ala. Code § 40-12-255(j)(1). Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor. § 40-12-255(j)(4).

34. Any state, county or municipal law-enforcement officer, or license inspector is authorized to issue citations for violations of Alabama Code Section 40-12-255, pursuant to Section 40-12-257.

B. Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535

35. On June 2, 2011, the Alabama legislature adopted the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535, a comprehensive state immigration scheme that extensively regulates immigration, immigrants, and those who associate or interact with immigrants. This law is commonly referred to as HB 56.

1. Text of Section 30 of HB 56

36. Section 30 of HB 56 became effective on September 28, 2011.

37. Section 30 of HB 56 defines and utilizes a new legal term, a “business transaction.” HB 56 § 30(a). The term “business transaction” is defined as “*any* transaction between a person and the state or a political subdivision of the state,” with the only exception being for marriage licenses. *Id.* (emphasis added).

38. The term “business transaction” is vaguely defined in exceptionally broad and misleading terms. As defined by statute, it is not limited to transactions involving “business.”

39. The term “business transaction” is broad enough to include numerous transactions with state and local officials that relate to housing, the ability to rent or buy housing, and the provision of services and facilities in connection with housing, therefore implicating compliance with the federal Fair Housing Act and other civil rights laws.

40. Section 30 of HB 56 makes it a Class C felony—punishable by up to ten years’ imprisonment, *see* Ala. Code § 13A-5-6—for an “unlawfully present alien” to enter or attempt to

enter into virtually any transaction with the state or local government agency. HB 56 § 30(b), (d).

41. Section 30 of HB 56 also prohibits a third party from entering or attempting to enter into virtually any transaction with the State or a political subdivision on behalf of an alien not lawfully present in the United States, again at penalty of a Class C felony conviction. *Id.*

42. Section 30 of HB 56 provides that any person entering or attempting to enter into a transaction with the State or a political subdivision of the state shall be required to demonstrate to the person conducting the transaction on behalf of the state/political subdivision that the applicant is a U.S. citizen, or, if he or she is an alien, that he or she has lawful presence in the United States. HB 56 § 30(c).

43. Section 30 of HB 56 further provides that U.S. citizenship must be proven by producing one of an enumerated list of documents. *Id.*; *see also* HB 56 § 29(k). If a person does not possess one of the enumerated documents but is in fact a U.S. Citizen, that person cannot satisfy the proof requirements of Section 30.

44. Section 30 of HB 56 further provides that an alien's lawful presence shall be demonstrated solely by the state or political subdivision's verification of the alien's lawful presence through the Systematic Alien Verification for Entitlements ("SAVE") program operated by the federal Department of Homeland Security ("DHS"), or by other verification with DHS pursuant to 8 U.S.C. § 1373(c). *Id.*

45. SAVE is an inter-governmental initiative designed to aid public benefit-granting agencies in determining an applicant's immigration status, and thereby ensure that only entitled applicants receive federal, state, or local public benefits and licenses.

46. Section 1373(c) of Title 8 of the U.S. Code requires the federal immigration agency to respond to certain immigration status inquiries by state and local agencies. After passage of Section 1373(c), the Immigration and Naturalization Service (now Department of Homeland Security) created the Law Enforcement Support Center to respond to requests for state and local law enforcement officers. There is, however, no system under § 1373(c) to verify citizenship or immigration status for individuals attempting to renew registration of manufactured homes or relating to any housing issues.

47. Neither the federal SAVE system, nor any federal system for status inquiries under § 1373(c), has been authorized by the federal government to verify immigration status in order to disqualify individuals from paying registration fees for manufactured homes or for any related purpose.

48. Moreover, federal determinations made under the SAVE system or any other system set up by § 1373(c), are merely snapshots of an individuals' status at some point prior to the status check and do not provide reliable or accurate immigration status determinations.

49. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner is not enrolled in, and cannot currently utilize, the SAVE program to determine whether manufactured home owners or renters are U.S. citizens or have lawful immigration status.

50. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner are not authorized to use, and cannot currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

51. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees has received approval to use SAVE to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

52. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees can currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

53. As a result, state and local officials are making their own determinations about the applicants' U.S. citizenship or lawful immigration status before allowing them to renew manufactured home registration and are implementing Section 30 in a manner expressly at odds with HB 56.

54. HB 56 does not establish any process by which an individual can challenge a determination by a state or local official that he or she is not "authorized" to be in the United States.

2. History and Intent of Section 30 of HB 56

55. The legislative history of Section 30 of HB 56 reveals a plain legislative intent to drive those suspected of being undocumented immigrants, and in particular minority immigrants of Latino heritage, out of Alabama by making living conditions miserable for them or by funneling them into deportation proceedings.

56. Representative Hammon, who introduced the bill in the House, explained: "This [bill] attacks *every aspect* of an illegal immigrant's life. They will not stay in Alabama [T]his bill is designed to make it difficult for them to live here so they will deport themselves." He also noted, "[W]e do want to affect every aspect of someone's life and make it a little more difficult for them to live here." In no uncertain terms, Representative Hammon stated: "[T]he

intent of this bill is to slow illegal immigration in Alabama through attrition.” He emphasized: “We are going to deter illegal immigrants from the State of Alabama.”

57. Senator Beason, who introduced a similar omnibus immigration bill in the Senate, and who ultimately consolidated his bill with Hammon’s to form HB 56, also expressed his views that the intent of HB 56 was to drive immigrants from the state. In a speech he delivered in February 2011, just before the legislative session commenced, he noted, “The reality is that if you allow illegal immigration to continue in your area you will destroy yourself eventually If you don’t believe illegal immigration will destroy a community go and check out parts of Alabama around Arab and Albertville.”

58. Section 30 of HB 56 is designed to achieve these goals by making it impossible for undocumented immigrants who reside in manufactured homes to continue living in this State.

59. The entirety of HB 56, including Section 30, is specifically targeted at making Latinos leave Alabama. The State officials who enacted and are implementing Section 30 of HB 56 knew that Section 30, and HB 56 in its entirety, would have the greatest impact on Latino immigrants. Latinos make up a majority of the State’s foreign-born population. And although only a small percentage of Latino immigrants in Alabama are undocumented, a majority of Alabama’s undocumented population is Latino.

60. Representative Rich, who voted for the bill, remarked that although he “like[s] Hispanic people,” “95 percent of the children that are in the elementary school at Crosswell Elementary School are Hispanic, 95 percent of them. 52 percent of the children that attend Albertville Elementary and Primary School are Hispanic, and the biggest part of them are illegal.” Representative Rich did not identify a source of information or any other factual basis for his allegation that “the biggest part of” the school children discussed were undocumented.

61. Contrary to Representative Rich’s assertion, in Alabama approximately 85% of all children whose parents are not lawfully present in the United States are U.S. citizens.

62. Representative Hammon has also conflated Latinos with undocumented immigrants. For example, on June 2, 2011, the date that the House of Representatives passed the final version of HB 56, Representative Hammon explained the need for the bill by claiming that “the illegal immigration population in Alabama is the second fastest growing in the country and the people in our state need jobs back.” When asked for evidence to substantiate this claim, he pointed to a news article that observed that the State’s *Latino* population had grown by 145% from 2000 to 2010, the second highest percentage of growth in the country for that ten-year period. The article did not, however, discuss any data or studies of undocumented immigrant populations. It was limited to a discussion of Alabama’s Latino population.

63. Similarly, Senator Beason singled out Arab and Albertville, both of which are in Marshall County, as examples of communities that have allegedly been destroyed by the presence of undocumented persons. Senator Beason’s comments were in no uncertain terms directed at Latino immigrants. Compared to the rest of the State, Marshall County has a large Latino population: 12% of Marshall County residents are Latino, compared to less than 4% of the State population. Moreover, Marshall County has no other significant immigrant population.

64. Those who opposed the legislation likewise understood that it took aim at Mexicans and other Latinos. Senator Singleton observed: “[T]he fact of the matter is that we know that when we talk about illegal immigration that it is basically targeted at one ethnic group and that seems to be the Latino Hispanic Americans” Senator Holmes stated: “The purpose of this bill is . . . these Mexicans [Y]ou all are trying to get as many in here out and trying to stop as many coming in [as you can]” Representative Jackson warned that the effects of HB

56 would reach even further than targeting Latinos: “It just doesn’t stop at the people coming from Mexico. This is not here just for them. This thing is going to have great repercussion for all minorities.”

65. At times supporters of HB 56 have spoken in violent terms about their desire to eradicate immigrants in Alabama. For example, at a town hall meeting this summer after HB 56 passed, Alabama Congressman Mo Brooks stated, in reference to his desire to force undocumented immigrants out of Alabama, that “[a]s your congressman on the house floor, I will do anything short of shooting them.”

66. In enacting HB 56 generally, and Section 30 specifically, Alabama legislated in an area committed exclusively to the federal government under the U.S. Constitution. Indeed, by passing HB 56, Alabama has intruded into an area of exclusive federal control and has sought to supplant the federal government in key respects.

67. Contrary to long-settled law that establishes the federal government’s exclusive role in regulating immigration, Section 30 of HB 56 reflects the view that the State of Alabama should regulate immigration on its own. Alabama has sought to use its self-granted power to attempt to drive people who are perceived to be undocumented out of the State through the denial of housing and housing-related local services. As Representative Hammon stated during legislative debates, “[I]t is the State’s responsibility to handle this issue and not the federal government.” He explained, “[T]his issue is now the responsibility of the State of Alabama and not the federal government.” He explained, in reference to federal immigration law and policy, that “[w]e are not going to depend on a broken system Here in Alabama we are not going to ignore the problem.”

68. HB 56 allows the State of Alabama to take control of immigration enforcement which Alabama has sought to justify by arguing that the federal government has failed to act to the State’s satisfaction. Representative Hammon remarked when he introduced the bill, “[I]t appears that the federal government has defaulted on their responsibility of enforcing federal immigration law. And they have forfeited that right to the States.” Senator Beason concurred with this sentiment, noting in the Senate debates that “[i]f the federal government would enforce their laws that they have on the books, the states would not be required to begin to do things to help enforce those laws.”

69. Representative Hammon, one of the two sponsors of HB 56, has publicly applauded efforts by local officials to deny essential housing-related services to individuals like Plaintiff Doe #1 and Plaintiff Doe #2, precisely because these acts will have the effect of driving Plaintiffs and other similarly situated people out of Alabama. As Representative Hammon explained this October when he was asked his views on new policies by certain public utilities to deny services to undocumented individuals under Section 30:

Our goal [through Section 30] was to prevent any business transactions with any governments. It’s just an extension of the goal of the entire bill—to prevent illegal immigrants from coming to Alabama and *to discourage those that are here from putting down roots. . . . It seems to be working. . . . We’re seeing a lot of illegal immigrants self-deport.*

C. Complying with Alabama’s Manufactured Homes Statute Constitutes a “Business Transaction” with the State, Which Is Forbidden to Undocumented Immigrants Under HB 56 Section 30.

70. The process of submitting a payment for the annual manufactured home registration fee and obtaining a current identification decal, as required by Alabama Code Section 40-12-255(a), is a “business transaction with the State” subject to HB 56 Section 30(a).

71. Applying for a moving permit pursuant to Alabama Code Section 40-12-255(j) is also a “business transaction with the State” subject to HB 56 Section 30(a).

72. Thus, the enforcement of HB 56 Section 30 will harm individuals who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status. Such individuals will be denied the rights to make an annual manufactured home registration payment, obtain a current identification decal, and apply for a moving permit.

73. Without a current registration payment and identification decal, any individual who owns, maintains, or keeps a manufactured home in Alabama will be subject to serious repercussions, including fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code § 40-12-255(a), (l); §§ 13A-5-7 and 13A-5-12.

74. Without a moving permit, an individual who attempts to transport a manufactured home on public roads in Alabama is subject to fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code §§ 40-12-255(j)(1) and (4); §§ 13A-5-7 and 13A-5-12.

75. In addition, an individual without documentation of U.S. citizenship or lawful immigration status who attempts to submit an annual manufactured home registration payment, obtain a current identification decal, or apply for a moving permit may be charged with a Class C felony and imprisoned for up to ten years under HB 56. HB 56 § 30(b), (d); Ala. Code § 13A-5-6.

76. An individual who attempts to submit a registration payment, obtain a current identification decal, or apply for a moving permit on behalf of an undocumented immigrant will likewise be charged with a Class C felony and can be sentenced to a ten-year prison term. *Id.*

77. Defendant Harper, in his capacity as the Revenue Commissioner of Elmore County, has announced a policy pursuant to HB 56 Section 30 of requiring proof of U.S. citizenship or lawful immigration status in order for an individual to make an annual manufactured home registration payment and obtain a current identification decal. Defendant Harper's policy makes it impossible for Plaintiffs Doe #1 and Doe #2 to comply with Alabama Code Section 40-12-255 because they are not allowed to submit their annual registration payments or obtain a current identification decal.

78. Section 30 of HB 56 applies statewide. Thus the same policy described in the preceding paragraph will be and is already being faced by every member of the Class and Subclass, regardless of which county they live in. In each of these counties, Defendant Magee is responsible for supervising and directing the work of the county revenue commissioners from whom Class and Subclass members must obtain identification decals for their manufactured homes.

D. Section 30 of HB 56 Is Federally Preempted.

79. The federal government has exclusive power over immigration matters. The U.S. Constitution grants the federal government the power to "establish a uniform Rule of Naturalization," U.S. Const. art. I § 8, cl. 4, and to "regulate Commerce with foreign Nations," U.S. Const. art. I § 8, cl. 3. In addition, the Supreme Court has held that the federal government's power to control immigration is inherent in the nation's sovereignty.

80. Congress has created a comprehensive system of federal laws, agencies, and procedures regulating immigration. *See generally* Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

81. The extensive statutory scheme created by the INA leaves no room for supplemental state immigration laws. A state law that regulates the terms and conditions under which non-citizens may remain in the State are preempted as an impermissible regulation of immigration.

82. State laws, like Section 30, that encroach on areas where Congress has indicated an intent to occupy the field—such as the regulation of the residence of non-citizens—are preempted. As are state laws that conflict with federal immigration law.

83. Section 30 of HB 56 dramatically alters the conditions under which non-citizens may remain in Alabama. By specifically requiring all non-citizens to prove that they have lawful status in order to obtain a manufactured home decal, this Section fundamentally affects the terms and conditions under which non-citizens may remain in a dwelling in the State.

84. Furthermore, certain categories of non-citizens, like Plaintiffs Doe #1 and Doe #2 and the members of the Class and Subclass, are unable to continue to live in their homes under this regime without threat of fines, penalties, or criminal prosecution. As such, Section 30 fundamentally alters the rights of residence of the members of the Class and Subclass and the individual Plaintiffs.

85. As Section 30 is currently being implemented to deny decals to manufactured home owners in the State, local officials are being required to make independent determinations of immigration status—a complex task for which they are not equipped, trained, or authorized to undertake. This is because in determining whether an individual attempting to renew their manufactured home registration is a U.S. citizen or lawful immigrant, state and local officials do not have access to federal databases on immigration and citizenship status. Instead, these state

and local officials are scrutinizing documents and making their own conclusions about individuals' citizenship and immigration status—determinations they are not trained to make.

86. Under the INA, a non-citizen's immigration status may be fluid and subject to change over time. A non-citizen who enters the United States with authorization, with a student visa for example, may remain in the country past his period of authorized stay and thus no longer be in status. Alternatively, he may overstay his original visa yet remain in status; for example, if he is eligible to and does change into a different visa classification. Conversely, a non-citizen who enters the United States without authorization, for example by crossing into the country by foot while evading border authorities, may subsequently gain lawful status, such as through a successful asylum application or grant of Temporary Protected Status.

87. The fluidity of immigration status is a fundamental feature of federal immigration law. It is a direct and unavoidable consequence of the system of immigration regulation that Congress has prescribed. This feature, moreover, accommodates many important national interests including, for example, the nation's humanitarian and international law obligations regarding asylum seekers and people fleeing torture.

88. Section 30 of HB 56 presumes that immigration status is definite, not subject to nuance, and readily and quickly ascertained. But those presumptions are not accurate.

89. Moreover, whether a person is a citizen of the United States is not always easily ascertained in the contexts demanded by Section 30 of HB 56. U.S. citizens are not required to carry documentary proof of their citizenship. Section 30 requires utilization of a list of documents, *see* HB 56 §§ 30(c), 29(k), but there is no guarantee that every U.S. citizen will possess one of these documents.

90. Furthermore, there is no national database that contains information about every U.S. citizen. Some people are actually unaware of their U.S. citizenship because they may have acquired U.S. citizenship at birth by operation of law due to their parents' citizenship, despite not having been born in the United States. *See, e.g.*, 8 U.S.C. § 1431. Others automatically obtain citizenship when their parents become naturalized U.S. citizens. *See, e.g.*, 8 U.S.C. § 1433.

91. The federal government has a core, constitutionally protected interest in setting a uniform federal immigration scheme, and in conducting foreign relations with other nations. State immigration laws interfere with these core interests.

92. Because the United States' immigration policy is inextricably intertwined with foreign relations, Alabama's attempt to regulate immigration through Section 30 of HB 56 will adversely impact the United States' ability to conduct foreign relations with other countries. HB 56 will undermine the ability of the U.S. government to speak with a single voice about immigration, including communicating to foreign nations as to what their nationals can expect when they come to visit or reside in the United States. State attempts to interfere with these inherently federal issues can have severe impacts on foreign relations.

E. Defendants' Enforcement of Section 30 of HB 56 Has a Disproportionate Adverse Impact on Alabama Latinos.

93. Defendants' enforcement of Section 30 of HB 56 as alleged above in Paragraphs 70-78 has a disproportionate adverse impact on Latinos in the State.

94. In Alabama, Latinos are significantly more likely than any other group to live in manufactured homes. Nearly a third (27.6%) of all Latinos living in Alabama reside in the U.S. census housing category "Mobile home, boat, RV, van, etc.," compared to 14.3% of non-Latino

Caucasians, 10.2% of non-Latino African Americans, and 3.2% of Asians. Considering the population of Alabama as a whole, only 13.5% of the population lives in mobile homes.²

95. Latinos are overrepresented among Alabama's foreign-born, non-U.S. citizen population. Latinos make up almost 45% of Alabama's foreign-born, non-naturalized population, whereas the total population of Alabama is less than 4% Latino. Approximately 65% of Alabama's non-U.S. citizen population is Latino.

96. Of Alabama's undocumented immigrant population, a large majority are Latino. Nationwide, approximately 77% of all undocumented immigrants are Latino.

INJURIES TO THE NAMED PLAINTIFFS

A. Harm to Individual Named Plaintiffs

97. Plaintiff Doe #1 and Plaintiff Doe #2 own and live in manufactured homes located in Elmore County, Alabama.

98. Because of Defendant Harper's policy, Plaintiff Doe #1 and Plaintiff Doe #2 face an impossible quandary. If they attempt to submit the annual registration payment and to obtain a current identification decal as required by Alabama Code Section 40-12-255(a), and/or to obtain a moving permit in order to move their manufactured homes out of Alabama by traveling on public roads, they will be subject to the harsh penalties established in HB 56 Section 30(d), and they will be denied the decal or permit for which they would be applying. If Plaintiff Doe #1 and Plaintiff Doe #2 fail to obtain a current identification decal and/or attempt to move their manufactured homes out of Alabama by traveling on public roads without a moving permit, they will be subject to similarly draconian penalties established in Alabama Code Section 40-12-255(a), (j), and (l).

² Under Alabama law a mobile home is a "manufactured home" subject to Alabama Code Section 40-12-255.

99. If subjected to the enforcement of HB 56 Section 30, Plaintiff Doe #1 and Plaintiff Doe #2 could be forced to abandon their housing and permanently forfeit their manufactured homes, because there will be no way for them to come into compliance with Alabama Code Section 40-12-255(a). Under Section 27 of HB 56, these Plaintiffs will not be able to sell their homes if they are forced to leave the manufactured home parks where they now live with their families.

100. Plaintiff Doe #1 wants to comply with Alabama Code Section 40-12-255 but knows he cannot do so if Defendants continue their policy of enforcing HB 56 Section 30.

101. Plaintiff Doe #1 fears that if he is unable to obtain a current identification decal, he and his partner and their U.S.-citizen son will have to abandon their home in order to avoid the fines, penalties, and criminal charges that are authorized under Alabama Code Section 40-12-255 for failure to display a valid identification decal.

102. Plaintiff Doe #1 does not know where else he could find housing if he had to give up his current home. He and his partner would have to leave behind their jobs and their church community and would have to pull their U.S.-citizen son out of school. Plaintiff Doe #1 is afraid that his son's education would be jeopardized if his family had to leave their home in Elmore.

103. Since the adoption of HB 56, Plaintiff Doe #1, his partner, and his son have suffered continuing anxiety and fear.

104. Plaintiff Doe #2 wants to do what is required under Alabama Code Section 40-12-255, but he is unable to make the annual registration payment and obtain a current decal because of Defendants' policy of enforcing Section 30 of HB 56.

105. Plaintiff Doe #2 is afraid that he will be fined, imprisoned, or deported if he cannot make the annual registration payment and obtain a current identification decal for his manufactured home, where he lives with his partner, son, and five extended family members.

106. Plaintiff Doe #2 fears that because of Defendants' challenged acts, he and his family may have to abandon their home, without being able to sell it. Plaintiff Doe #2 does not know where he and his family could move if they can no longer live in their home in Millbrook. He is worried that he would not be able to find work to support his family, and he does not want to make his young U.S.-citizen son leave his school and his friends.

107. Plaintiff Doe #2 fears that his partner and son's well-being will suffer if Plaintiff Doe #2 is detained or deported, pursuant to Defendants' enforcement of Section 30 of HB 56.

108. Because they will not have current decals on the outside of their homes, Plaintiffs Doe #1 and Doe #2 will be involuntarily yet conspicuously in violation of their lawful obligations under Alabama Code Section 40-12-255. Being forced to be visibly out of compliance with the law will significantly heighten the exposure of Plaintiffs Doe #1 and Doe #2 and their families to law enforcement, who pursuant to the new authority conferred by Section 12 of HB 56 are obligated "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States," to make inquiries into that person's citizenship and immigration status. HB 56 § 12(a). Plaintiffs Doe #1 and Doe #2 thus face an increased risk of arrest and detention because of Defendants' enforcement of HB 56 Section 30.

B. Harm to Organizational Plaintiffs

109. Defendants' enforcement of HB 56 Section 30 has harmed and will continue to harm Plaintiffs CAFHC, FHCNA, and CFH.

110. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CAFHC's mission of promoting understanding of and enforcing fair housing laws. In order to counteract the effects of Defendants' acts by educating people about their rights, Plaintiff CAFHC staff members have had to spend time researching the enforcement policies adopted by different counties in Alabama, the criminal and fair housing implications of the law, and related state-law requirements applicable to manufactured homes. Plaintiff CAFHC personnel have also prepared for and presented at know-your-rights training sessions to speak about HB 56 Section 30 to people who live in manufactured home residents and drafted an educational flyer with information about HB 56 Section 30 and manufactured home decals.

111. The need for these counteraction activities that are in specific response to Defendants' enforcement of HB 56 Section 30 have prevented or delayed Plaintiff CAFHC from working on other projects that it would have completed, including finalizing an Analysis of Impediments, pursuant to a contract awarded by the City of Montgomery; pursuing a planned program to conduct testing for race and disability based housing discrimination in the middle region of Alabama; and participating in a mortgage lending training session.

112. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff FHCNA's mission of eliminating housing discrimination. In order to counteract the discriminatory and unlawful impact of Defendants' acts on the communities it serves, Plaintiff FHCNA will have to divert scarce resources away from regularly planned activities by, *inter alia*, realigning its testing program to target discrimination based on national origin against residents of manufactured home parks, readjusting its client intake counseling to provide information and assess the impacts of HB 56 Section 30 on manufactured home residents, and meeting with community and civil rights groups regarding the impacts that HB 56

Section 30 is having on residents of manufactured homes. In response to HB 56 Section 30 Plaintiff FHCNA has engaged and is engaging in communications with HUD to seek guidance on the fair housing implications of the law and is preparing know-your-rights materials.

113. Because Plaintiff FHCNA is devoting and will continue to devote its limited resources to the activities described in the preceding paragraph, it has been unable to engage in regularly planned programs including testing in fields that it had planned to investigate, such as sales and insurance, and engaging in normal outreach and client intake.

114. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CFH's mission, which is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants' rights, and lending practices. In order to counteract the discriminatory and harmful impact of HB 56 on the communities it serves, Plaintiff CFH has had to reach out to organizations that work with immigrant communities, and it has participated in meetings to discuss the applicability of HB 56 Section 30 to manufactured homes. Plaintiff CFH has spent time researching HB 56 Section 30 and its impact on manufactured home residents, and it has been in communication with HUD regarding problems associated with HB 56's housing restrictions. Plaintiff CFH has also applied to realign its funding from a focus on predatory lending to a focus on outreach and enforcement regarding national origin discrimination in order to respond to HB 56's discriminatory housing restrictions, including Section 30.

115. These counteraction activities have prevented and delayed Plaintiff CFH from working on other planned projects, such as conducting general rental testing and routine outreach activities and conducting education and outreach on other issues.

CLASS ALLEGATIONS

116. Plaintiffs Doe #1 and Doe #2 have filed this Complaint as a class action pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

117. Plaintiffs Doe #1 and Doe #2 request that this Court certify a Class of all similarly situated individuals. The proposed Class definition is: All individuals who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home in Alabama.

118. Plaintiffs Doe #1 and Doe #2 further request that the Court certify a Latino Subclass with the following definition: All Latinos who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home.

119. This action is properly maintained as a class action because:

(a) Joinder of all members of the Class and Latino Subclass is impracticable because of the size of the Class and Subclass.

(i) The Class comprises more than 40 households.

(ii) The Latino Subclass comprises more than 40 households.

(b) The claims alleged on behalf of the Class and Latino Subclass raise questions of law and fact that are common to the Class and Subclass.

(i) All Class members will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.

- (ii) The members of the Latino Subclass are of the same race and national origin. The enforcement of Section 30 of HB 56 is intentionally targeted at members of the Subclass because of their Latino race and national origin, and it will have a disproportionate adverse impact on members of the Subclass.
- (c) The claims of the Class representatives are typical of the Class and Subclass.
- (i) Like the members of the Class, Plaintiffs Doe #1 and Doe #2 will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.
 - (ii) Like the members of the Latino Subclass, Plaintiffs Doe #1 and Doe #2 are Latinos who will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution, due to the discriminatory intent and effect of Defendants' enforcement of Section 30 of HB 56, on grounds of Subclass members' Latino race and national origin.
- (d) The Class and Latino Subclass representatives and Class counsel will fairly and adequately represent the interests of the Class and Subclass. The Class and Latino Subclass representatives have no interests that are antagonistic to the interests of other Plaintiffs, and Class counsel have substantial experience in civil rights and class action litigation.

120. Class-wide declaratory and injunctive relief is appropriate for the Class because Defendants have acted or refuse to act on grounds generally applicable to the Class as a whole.

Defendants have applied and will apply the same policy, custom, and/or practice to all Class members.

121. Class-wide declaratory and injunctive relief is appropriate for the Latino Subclass because Defendants have acted or refuse to act on grounds generally applicable to the Subclass as a whole. Defendants have applied and will apply the same policy, custom, and/or practice to all Latino Subclass members.

122. There are questions of law or fact common to all of the members of the Class and Latino Subclass that predominate over any questions affecting only individuals and a class action is superior to other methods for a fair and efficient adjudication of the controversy. Common questions of law or fact predominate and the controversy is most fairly and efficiently adjudicated via class action because all Class and Latino Subclass members will be subject to the same fines, penalties, and threat of criminal prosecution for the same conduct.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

**For Injunctive and Declaratory Relief under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants
*On Behalf of All Named Plaintiffs and the Latino Subclass***

123. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

124. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, maintains, or keeps a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

125. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make registration payments and apply for a manufactured home decal or a moving permit.

126. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits to Plaintiffs Doe #1, Doe #2 and the Latino Subclass will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Injunctive and Declaratory Relief Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of All Named Plaintiffs and the Latino Subclass

127. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

128. Section 40-12-255 of the Alabama Code requires anyone who owns, maintains, or keeps a manufactured home to obtain a decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

129. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make an annual registration fee payment or apply for a manufactured home decal or a moving permit.

130. Defendants' enforcement of Section 30 of HB 56 against Plaintiffs Doe #1, Doe #2, and the Latino Subclass by refusing to accept their annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing occupied by Latino Subclass members, because of their race and national origin, in violation of 42 U.S.C. § 3604(b).

THIRD CAUSE OF ACTION
For Injunctive and Declaratory Relief Under U.S. Const., Art. VI, cl. 2
Against All Defendants
On Behalf of All Named Plaintiffs and the Class

131. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 35-69, 79-92, 97-115, 117, 119-120, and 122 above.

132. The Supremacy Clause, Article VI, Section 2, of the U.S. Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

133. The Supremacy Clause mandates that federal law preempts state law in any area over which Congress expressly or impliedly has reserved exclusive authority or which is constitutionally reserved to the federal government, or where state law conflicts or interferes with federal law.

134. Section 30 of HB 56 makes it a crime for certain non-citizens, including Plaintiffs Doe #1, Doe #2, and members of the Class, to make an annual registration payment or apply for a manufactured home decal or moving permit.

135. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns or maintains a manufactured home to obtain a decal by or before November 30 of each year.

136. The inability to obtain a decal will make housing unavailable to Plaintiffs Doe #1, Doe #2, and members of the Class.

137. Section 30 of HB 56 regulates the terms and conditions under which non-U.S. citizens may remain in Alabama.

138. Section 30 is an impermissible state regulation of immigration, and therefore usurps powers constitutionally vested in the federal government exclusively.

139. Section 30 also conflicts with federal laws, regulations, and policies; attempts to legislate in a field occupied by the federal government; imposes burdens and penalties on legal residents not authorized by and contrary to federal law, and unilaterally imposes burdens on the federal government's resources and processes, each in violation of the Supremacy Clause.

140. Plaintiffs move for relief on this claim directly under the Constitution and also under 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION
For Injunctive and Declaratory Relief Under 42 U.S.C. § 1983 and
U.S. Const., Amend. XIV § 1, cl. 3
Against All Defendants
On Behalf of Plaintiff Doe #1, Plaintiff Doe #2, and the Class

141. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-54, 70-78, and 97-108, 117, 119-120, and 122 above.

142. Defendants' enforcement of Section 30 of HB 56 prohibits Plaintiffs Doe #1, Doe #2, and the Class from complying with the requirements under Alabama Code Section 40-12-255 to pay an annual registration fee and to obtain and prominently display a current manufactured home identification decal. Without a current identification decal, Plaintiffs Doe #1, Doe #2, and the Class will be subject to the penalties established in Alabama Code Section 40-12-255(a) and (k).

143. Defendants' enforcement of Section 30 of HB 56 will force Plaintiffs Doe #1, Doe #2, and the Class to abandon their housing and permanently forfeit their manufactured homes, because they cannot come into compliance with Alabama Code Section 40-12-255(a) or (j).

144. Under Section 27 of HB 56, the individual Plaintiffs and the Class will be unable to sell their homes before abandoning and forfeiting them.

145. Defendants' enforcement of HB 56 Section 30 against Plaintiffs Doe #1, Doe #2, and the Class has deprived and/or will deprive them of their property without substantive due process, in violation the Due Process Clause of the Fourteenth Amendment.

146. Defendants' enforcement of HB 56 Section 30 is pursuant to their official capacities as state actors under color of law and is therefore actionable under the Fourteenth Amendment through 42 U.S.C. § 1983.

FIFTH CAUSE OF ACTION
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants
On Behalf of All Named Plaintiffs

147. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

148. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

149. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

150. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

151. Defendants' violations of 42 U.S.C. § 3604(a) have caused and will continue to cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to compensatory damages under 42 U.S.C. § 3613(c).

SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of the Named Plaintiffs

152. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

153. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

154. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1 and Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

155. Defendants' enforcement of Section 30 of HB 56 by refusing to accept annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing on the basis of race and national origin, in violation of 42 U.S.C. § 3604(b).

156. Defendants' violations of 42 U.S.C. § 3604(b) have caused and will cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to damages under 42 U.S.C. § 3613(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

(1) Issue a temporary restraining order and preliminary injunction immediately enjoining the enforcement of HB 56 Section 30 statewide against Plaintiffs and the Class and Latino Subclass;

(2) Order Defendant Magee to immediately notify all county officials who are responsible for enforcing the manufactured home registration requirements of Section 40-12-255 of the Alabama Code if said temporary restraining order and preliminary injunction is entered;

(3) Certify the Class and Subclass;

(4) Enter a declaratory judgment finding that Defendants' enforcement of HB 56 Section 30 violates the Fair Housing Act, 42 U.S.C. § 3604(a) and (b); the Supremacy Clause of Article VI of the U.S. Constitution; the Due Process Clause of Amendment XIV of the U.S. Constitution; and 42 U.S.C. § 1983.

(5) Enter a permanent injunction enjoining Defendants from enforcing Section 30 of HB 56;

(6) Award compensatory damages to Plaintiffs Doe #1, Doe #2, CAFHC, FHCNA, and CFH for their claims for damages under 42 U.S.C. § 3604(a) and (b);

(7) Award Plaintiffs their reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988 and 3613(c)(2); and

(8) Order such other relief as this Court deems just and equitable.

Dated: November 18, 2011

Respectfully submitted,

s/ Mary Bauer

Mary Bauer

On Behalf of Counsel for Plaintiffs

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* *Pro hac vice* admission to be sought

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

CENTRAL ALABAMA FAIR HOUSING
CENTER;

FAIR HOUSING CENTER OF NORTHERN
ALABAMA;

CENTER FOR FAIR HOUSING, INC.; and

JOHN DOE #1 and JOHN DOE #2, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

JULIE MAGEE, in her official capacity as
Alabama Revenue Commissioner, and

WILLIAM HARPER, in his official capacity
as Elmore County Revenue Commissioner,

Defendants.

Civil Action File No.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF
AND FOR DAMAGES**

CLASS ACTION

NATURE OF THE ACTION

1. This is a civil rights action for declaratory and injunctive relief brought by Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, Center for Fair Housing, Inc., John Doe #1, and John Doe #2 for violations of the federal Fair Housing Act, 42 U.S.C. § 3601 et seq., and the Supremacy Clause and Due Process Clause of the U.S. Constitution.

2. Plaintiff John Doe #1 is an undocumented immigrant from Mexico. He owns and resides in a manufactured home in Elmore County, Alabama, along with his partner, five-year-old U.S.-citizen son, and sixteen-year-old nephew.

3. Plaintiff John Doe #2 is an undocumented immigrant from Mexico. Like Plaintiff Doe #1, Plaintiff Doe #2 owns and resides in a manufactured home in Elmore County, along with his partner, his five-year-old U.S.-citizen son, and his partner's parents and three brothers.

4. This action is brought against Defendant Julie Magee in her official capacity as Alabama Revenue Commissioner and Defendant William Harper in his official capacity as the Revenue Commissioner of Elmore County, Alabama.

5. Section 30 of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Laws 535 (commonly referred to as "HB 56"), forbids "[a]n alien not lawfully present in the United States" from entering into or attempting to enter into "any transaction . . . [with] the state or a political subdivision of the state," with the sole exception of obtaining a marriage license.¹ It further forbids any person from entering into or attempting to enter into such a transaction on behalf of an "alien not lawfully present in the United States." An individual found in violation of Section 30 can be convicted of a Class C felony and subjected to up to ten years' imprisonment.

6. Section 40-12-255 of the Alabama Code requires that all individuals who own, maintain, or keep a manufactured home in Alabama engage in a "transaction" with the State, within the meaning of Section 30 of HB 56. Specifically, by no later than November 30 of each calendar year, any such person must pay an annual registration fee and display a current identification decal in a conspicuous location on the outside of her manufactured home. Section 40-12-255 imposes progressive fines and penalties for non-compliance, including imprisonment.

¹ A copy of the enrolled Bill is attached as Attachment 1. HB 56 has not been codified yet but is unofficially reported in electronic databases at Ala. Code § 31-13-1 *et seq.* (West 2011) and Ala. Code § 31-9C-1 *et seq.* (Michie/LexisNexis 2011).

7. Defendants Magee and Harper have adopted and implemented a policy, pursuant to the requirements of Section 30 of HB 56, to reject annual manufactured home registration payments from, and thus deny identification decals to, individuals who are unable to demonstrate U.S. citizenship or lawful immigration status. In other words, Defendants' policy treats the act of complying with Alabama Code § 40-12-255 as a "business transaction" under HB 56 Section 30.

8. Until the passage and implementation of Section 30 of HB 56, Plaintiffs Doe #1 and Doe #2 were allowed to register their manufactured homes pursuant to Alabama Code Section 40-12-255.

9. Defendants' policy for enforcing HB 56 Section 30 makes it impossible for Plaintiffs Doe #1 and Doe #2 to make the annual registration payment and obtain current identification decals for their manufactured homes, as they are required to do under Alabama Code Section 40-12-255 by no later than November 30, 2011. If Plaintiffs Doe #1 and Doe #2 attempt to pay their annual registration fees in order to obtain current identification decals, they could face Class C felony charges for attempting to enter into a transaction with the State, in violation of HB 56 Section 30. But if Plaintiffs Doe #1 and Doe #2 do not pay the annual registration fee and do not display a current identification decal by November 30, 2011, they will face fines, penalties, and Class C misdemeanor charges for violating the Manufactured Homes statute, Alabama Code Sec. 40-12-255.

10. Defendants' policy of enforcing HB 56 Section 30 further makes it impossible for Plaintiffs Doe #1 and Doe #2 to move their manufactured homes on public roads in Alabama. Under subsection (j) of the Manufactured Homes Statute, a permit is required to make such a move, yet any effort to obtain a moving permit would also constitute a "business transaction"

within the meaning of Section 30 of HB 56. Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor under Alabama Code Section 40-12-255(j)(4).

11. Section 27 of HB 56 makes unenforceable in Alabama courts virtually any contract that takes more than 24 hours to complete and is entered into where the parties know or should have known that one of them is a non-U.S. citizen who lacks proof of lawful immigration status.

12. In the event of eviction from the manufactured home parks where they currently reside, Plaintiffs Doe #1 and Doe #2 may therefore be forced to abandon their homes because under HB 56 they cannot lawfully move them, and any sale contract may be unenforceable.

13. Plaintiffs Doe #1 and Doe #2 bring this case on behalf of themselves and a Class of similarly situated residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

14. Plaintiffs Doe #1 and Doe #2 also bring this case on behalf of themselves and a Subclass of similarly situated Latino residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

15. Defendants' policy of enforcing Section 30 so as to refuse annual registration payments from and to deny manufactured home identification decals to individuals who cannot demonstrate U.S. citizenship or lawful immigration status will cause immediate and irreparable harm to Plaintiffs Doe #1 and Doe #2 and their families, as well as to similarly situated individuals who own, maintain, or keep manufactured homes in Alabama.

16. Defendants' policy of enforcing Section 30 so as to refuse to accept annual registration payments from, and to deny manufactured home identification decals to, members of

the Class and Subclass has injured and will continue to injure organizational Plaintiffs Central Alabama Fair Housing Action Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc. These Plaintiffs have already diverted and will be forced to continue to divert scarce resources away from their core activities in order to conduct education, outreach, and advocacy on behalf of communities throughout Alabama concerning the impact of HB 56 Section 30 on immigrants who live in manufactured homes and who face fines, penalties, and the threat of criminal prosecution if they cannot pay their annual registration fees and receive the required identification decals.

17. Defendants' policy pursuant to HB 56 of refusing annual registration payments from and denying current identification decals to individuals who live in manufactured homes and who cannot show proof of U.S. citizenship or lawful immigration status violates the Fair Housing Act, the Supremacy Clause of the U.S. Constitution, and the Due Process Clause of the U.S. Constitution.

JURISDICTION AND VENUE

18. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(a)(4), 2201, 2202, and 42 U.S.C. § 3613(a)(1)(A).

19. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 81 and 1391(b). Defendant Magee and Defendant Harper reside in this State; Defendant Harper is employed in this District and Division as a County official; and Defendant Magee is employed in this District and Division as a State official. A substantial part of the events and omissions giving rise to Plaintiffs' claims have occurred and/or will occur in this District and Division.

PARTIES

Organizational Plaintiffs

20. The three organizational Plaintiffs collectively provide fair housing services in nearly every county within Alabama. Their core activities include advocating for equal housing opportunities, assisting victims of housing discrimination, and enforcing compliance with the federal Fair Housing Act and related fair housing laws.

21. **Plaintiff Central Alabama Fair Housing Center** (“CAFHC”) is an Alabama non-profit corporation, with its principal place of business in Montgomery, Alabama. Founded in 1995, CAFHC’s mission is to promote understanding of the Fair Housing Act and to enforce the Fair Housing Act. It advances that mission through educational activities including speaking to community groups and individuals most likely to experience housing discrimination, training housing providers in fair housing issues, and conducting intake and investigations.

22. Plaintiff CAFHC provides fair housing services in the following Alabama Counties: Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Greene, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Sumter, Tallapoosa, and Wilcox.

23. **Plaintiff Fair Housing Center of Northern Alabama** (“FHCNA”) is an Alabama non-profit corporation, with its principal place of business in Birmingham, Alabama. Plaintiff FHCNA was founded in 1993. Its mission is the elimination and eradication of housing discrimination through education and enforcement activities. FHCNA seeks to ensure that all individuals who seek housing are given fair and equal access to housing of their choice. In furtherance of this mission, Plaintiff FHCNA hosts public seminars for housing providers and

community members, engages in outreach activities, undertakes investigations, and files administrative complaints. Plaintiff FHCNA provides fair housing services in the following Alabama Counties: Blount, Calhoun, Cherokee, Colbert, Cullman, DeKalb, Etowah, Fayette, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker, and Winston.

24. **Plaintiff Center for Fair Housing, Inc.** (“CFH”) is an Alabama non-profit corporation, founded in 1998, with its principal place of business in Mobile, Alabama. CFH’s mission is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants’ rights, and fair lending practices, in order to promote healthier and more inclusive communities. Plaintiff CFH provides these fair housing services in the following Alabama Counties: Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

Individual Plaintiffs

25. **Plaintiff John Doe #1** resides in Elmore County in a manufactured home that he owns. He lives with his partner and five-year-old son, who is a U.S. citizen. Plaintiff Doe #1 is originally from Mexico and came to the United States approximately eight years ago. He rents a lot for his manufactured home in Elmore, Alabama.

26. **Plaintiff John Doe #2** resides in Elmore County in a manufactured home that he owns. Plaintiff Doe #2 came to the United States from Mexico in 2002. He rents a lot for his manufactured home in Millbrook, Alabama, where he lives with his partner, their five-year-old son, and his partner’s parents and three brothers. Plaintiff Doe #2’s son is a U.S. citizen.

Defendants

27. **Defendant Julie Magee** is the Revenue Commissioner for the State of Alabama. As the head of the Alabama Department of Revenue, she is charged with carrying out the duties of the Department, which by Alabama law include “general and complete supervision and control of,” *inter alia*, “the collection of all property, privilege, license, excise, intangible, franchise, or other taxes for the state and counties.” Ala. Code § 40-2-11(1). Defendant Magee is responsible for supervising and directing the work of all state and county officials who are charged with the assessment and collection of taxes, including the manufactured home registration fee at issue in this case. She is sued in her official capacity.

28. **Defendant William Harper** is the Revenue Commissioner for Elmore County, Alabama. He is responsible for collecting payments and issuing manufactured home registration decals to manufactured home owners who reside in Elmore County. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. Alabama’s Manufactured Homes Statute

29. In Alabama, a “manufactured home” is subject to the requirements of Section 40-12-255 of the Alabama Code. Section 40-12-255(a) requires that any “person, firm, or corporation who owns, maintains, or keeps . . . a manufactured home” pay an annual registration fee and an issuance fee in order to obtain a current identification decal. The identification decal, which is designed and issued by the Alabama Department of Revenue, is color-coded to indicate the year in which it was issued and must be displayed on the outside of the manufactured home at eye level, so as to be “clearly visible from the street.” *Id.*

30. Under Alabama law, the County official with responsibility for collecting taxes and other assessments has the duty to collect the annual manufactured home registration fees, to issue identification decals, and to impose fines and penalties for late payments. In Elmore County, Defendant Harper is the County official who is assigned these responsibilities.

31. The registration fee and issuance fee are due on October 1 of each year and are considered delinquent if not paid by November 30 of each year. An individual who fails to pay the registration fee and issuance fee by November 30 will be fined a \$10 delinquent fee and a \$15 citation fee. An additional penalty is imposed if the delinquent fee and citation fee are not paid within 15 days of the first citation. Ala. Code § 40-12-255(b). An individual cannot obtain a current identification decal for his or her manufactured home until all outstanding fees and penalties have been satisfied.

32. In addition to the fines and penalties identified above in Paragraph 31, an individual who violates any provision of Section 40-12-255 is guilty of a Class C misdemeanor. Ala. Code § 40-12-255(l). Under Alabama law, a Class C misdemeanor is punishable with a three-month jail term, in addition to a fine of at least \$50 and up to \$500. *Id.*; §§ 13A-5-7 and 13A-5-12.

33. In order to obtain a permit to move a manufactured home on public roads in Alabama, a manufactured home owner must obtain a permit from the County official who administers the manufactured home registration laws in the County where the manufactured home is currently being kept. Proof of payment of the current registration fee, as well as any outstanding fines and penalties, is required to obtain a moving permit. Ala. Code § 40-12-255(j)(1). Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor. § 40-12-255(j)(4).

34. Any state, county or municipal law-enforcement officer, or license inspector is authorized to issue citations for violations of Alabama Code Section 40-12-255, pursuant to Section 40-12-257.

B. Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535

35. On June 2, 2011, the Alabama legislature adopted the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535, a comprehensive state immigration scheme that extensively regulates immigration, immigrants, and those who associate or interact with immigrants. This law is commonly referred to as HB 56.

1. Text of Section 30 of HB 56

36. Section 30 of HB 56 became effective on September 28, 2011.

37. Section 30 of HB 56 defines and utilizes a new legal term, a “business transaction.” HB 56 § 30(a). The term “business transaction” is defined as “*any* transaction between a person and the state or a political subdivision of the state,” with the only exception being for marriage licenses. *Id.* (emphasis added).

38. The term “business transaction” is vaguely defined in exceptionally broad and misleading terms. As defined by statute, it is not limited to transactions involving “business.”

39. The term “business transaction” is broad enough to include numerous transactions with state and local officials that relate to housing, the ability to rent or buy housing, and the provision of services and facilities in connection with housing, therefore implicating compliance with the federal Fair Housing Act and other civil rights laws.

40. Section 30 of HB 56 makes it a Class C felony—punishable by up to ten years’ imprisonment, *see* Ala. Code § 13A-5-6—for an “unlawfully present alien” to enter or attempt to

enter into virtually any transaction with the state or local government agency. HB 56 § 30(b), (d).

41. Section 30 of HB 56 also prohibits a third party from entering or attempting to enter into virtually any transaction with the State or a political subdivision on behalf of an alien not lawfully present in the United States, again at penalty of a Class C felony conviction. *Id.*

42. Section 30 of HB 56 provides that any person entering or attempting to enter into a transaction with the State or a political subdivision of the state shall be required to demonstrate to the person conducting the transaction on behalf of the state/political subdivision that the applicant is a U.S. citizen, or, if he or she is an alien, that he or she has lawful presence in the United States. HB 56 § 30(c).

43. Section 30 of HB 56 further provides that U.S. citizenship must be proven by producing one of an enumerated list of documents. *Id.*; *see also* HB 56 § 29(k). If a person does not possess one of the enumerated documents but is in fact a U.S. Citizen, that person cannot satisfy the proof requirements of Section 30.

44. Section 30 of HB 56 further provides that an alien's lawful presence shall be demonstrated solely by the state or political subdivision's verification of the alien's lawful presence through the Systematic Alien Verification for Entitlements ("SAVE") program operated by the federal Department of Homeland Security ("DHS"), or by other verification with DHS pursuant to 8 U.S.C. § 1373(c). *Id.*

45. SAVE is an inter-governmental initiative designed to aid public benefit-granting agencies in determining an applicant's immigration status, and thereby ensure that only entitled applicants receive federal, state, or local public benefits and licenses.

46. Section 1373(c) of Title 8 of the U.S. Code requires the federal immigration agency to respond to certain immigration status inquiries by state and local agencies. After passage of Section 1373(c), the Immigration and Naturalization Service (now Department of Homeland Security) created the Law Enforcement Support Center to respond to requests for state and local law enforcement officers. There is, however, no system under § 1373(c) to verify citizenship or immigration status for individuals attempting to renew registration of manufactured homes or relating to any housing issues.

47. Neither the federal SAVE system, nor any federal system for status inquiries under § 1373(c), has been authorized by the federal government to verify immigration status in order to disqualify individuals from paying registration fees for manufactured homes or for any related purpose.

48. Moreover, federal determinations made under the SAVE system or any other system set up by § 1373(c), are merely snapshots of an individuals' status at some point prior to the status check and do not provide reliable or accurate immigration status determinations.

49. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner is not enrolled in, and cannot currently utilize, the SAVE program to determine whether manufactured home owners or renters are U.S. citizens or have lawful immigration status.

50. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner are not authorized to use, and cannot currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

51. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees has received approval to use SAVE to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

52. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees can currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

53. As a result, state and local officials are making their own determinations about the applicants' U.S. citizenship or lawful immigration status before allowing them to renew manufactured home registration and are implementing Section 30 in a manner expressly at odds with HB 56.

54. HB 56 does not establish any process by which an individual can challenge a determination by a state or local official that he or she is not "authorized" to be in the United States.

2. History and Intent of Section 30 of HB 56

55. The legislative history of Section 30 of HB 56 reveals a plain legislative intent to drive those suspected of being undocumented immigrants, and in particular minority immigrants of Latino heritage, out of Alabama by making living conditions miserable for them or by funneling them into deportation proceedings.

56. Representative Hammon, who introduced the bill in the House, explained: "This [bill] attacks *every aspect* of an illegal immigrant's life. They will not stay in Alabama [T]his bill is designed to make it difficult for them to live here so they will deport themselves." He also noted, "[W]e do want to affect every aspect of someone's life and make it a little more difficult for them to live here." In no uncertain terms, Representative Hammon stated: "[T]he

intent of this bill is to slow illegal immigration in Alabama through attrition.” He emphasized: “We are going to deter illegal immigrants from the State of Alabama.”

57. Senator Beason, who introduced a similar omnibus immigration bill in the Senate, and who ultimately consolidated his bill with Hammon’s to form HB 56, also expressed his views that the intent of HB 56 was to drive immigrants from the state. In a speech he delivered in February 2011, just before the legislative session commenced, he noted, “The reality is that if you allow illegal immigration to continue in your area you will destroy yourself eventually If you don’t believe illegal immigration will destroy a community go and check out parts of Alabama around Arab and Albertville.”

58. Section 30 of HB 56 is designed to achieve these goals by making it impossible for undocumented immigrants who reside in manufactured homes to continue living in this State.

59. The entirety of HB 56, including Section 30, is specifically targeted at making Latinos leave Alabama. The State officials who enacted and are implementing Section 30 of HB 56 knew that Section 30, and HB 56 in its entirety, would have the greatest impact on Latino immigrants. Latinos make up a majority of the State’s foreign-born population. And although only a small percentage of Latino immigrants in Alabama are undocumented, a majority of Alabama’s undocumented population is Latino.

60. Representative Rich, who voted for the bill, remarked that although he “like[s] Hispanic people,” “95 percent of the children that are in the elementary school at Crosswell Elementary School are Hispanic, 95 percent of them. 52 percent of the children that attend Albertville Elementary and Primary School are Hispanic, and the biggest part of them are illegal.” Representative Rich did not identify a source of information or any other factual basis for his allegation that “the biggest part of” the school children discussed were undocumented.

61. Contrary to Representative Rich’s assertion, in Alabama approximately 85% of all children whose parents are not lawfully present in the United States are U.S. citizens.

62. Representative Hammon has also conflated Latinos with undocumented immigrants. For example, on June 2, 2011, the date that the House of Representatives passed the final version of HB 56, Representative Hammon explained the need for the bill by claiming that “the illegal immigration population in Alabama is the second fastest growing in the country and the people in our state need jobs back.” When asked for evidence to substantiate this claim, he pointed to a news article that observed that the State’s *Latino* population had grown by 145% from 2000 to 2010, the second highest percentage of growth in the country for that ten-year period. The article did not, however, discuss any data or studies of undocumented immigrant populations. It was limited to a discussion of Alabama’s Latino population.

63. Similarly, Senator Beason singled out Arab and Albertville, both of which are in Marshall County, as examples of communities that have allegedly been destroyed by the presence of undocumented persons. Senator Beason’s comments were in no uncertain terms directed at Latino immigrants. Compared to the rest of the State, Marshall County has a large Latino population: 12% of Marshall County residents are Latino, compared to less than 4% of the State population. Moreover, Marshall County has no other significant immigrant population.

64. Those who opposed the legislation likewise understood that it took aim at Mexicans and other Latinos. Senator Singleton observed: “[T]he fact of the matter is that we know that when we talk about illegal immigration that it is basically targeted at one ethnic group and that seems to be the Latino Hispanic Americans” Senator Holmes stated: “The purpose of this bill is . . . these Mexicans [Y]ou all are trying to get as many in here out and trying to stop as many coming in [as you can]” Representative Jackson warned that the effects of HB

56 would reach even further than targeting Latinos: “It just doesn’t stop at the people coming from Mexico. This is not here just for them. This thing is going to have great repercussion for all minorities.”

65. At times supporters of HB 56 have spoken in violent terms about their desire to eradicate immigrants in Alabama. For example, at a town hall meeting this summer after HB 56 passed, Alabama Congressman Mo Brooks stated, in reference to his desire to force undocumented immigrants out of Alabama, that “[a]s your congressman on the house floor, I will do anything short of shooting them.”

66. In enacting HB 56 generally, and Section 30 specifically, Alabama legislated in an area committed exclusively to the federal government under the U.S. Constitution. Indeed, by passing HB 56, Alabama has intruded into an area of exclusive federal control and has sought to supplant the federal government in key respects.

67. Contrary to long-settled law that establishes the federal government’s exclusive role in regulating immigration, Section 30 of HB 56 reflects the view that the State of Alabama should regulate immigration on its own. Alabama has sought to use its self-granted power to attempt to drive people who are perceived to be undocumented out of the State through the denial of housing and housing-related local services. As Representative Hammon stated during legislative debates, “[I]t is the State’s responsibility to handle this issue and not the federal government.” He explained, “[T]his issue is now the responsibility of the State of Alabama and not the federal government.” He explained, in reference to federal immigration law and policy, that “[w]e are not going to depend on a broken system Here in Alabama we are not going to ignore the problem.”

68. HB 56 allows the State of Alabama to take control of immigration enforcement which Alabama has sought to justify by arguing that the federal government has failed to act to the State’s satisfaction. Representative Hammon remarked when he introduced the bill, “[I]t appears that the federal government has defaulted on their responsibility of enforcing federal immigration law. And they have forfeited that right to the States.” Senator Beason concurred with this sentiment, noting in the Senate debates that “[i]f the federal government would enforce their laws that they have on the books, the states would not be required to begin to do things to help enforce those laws.”

69. Representative Hammon, one of the two sponsors of HB 56, has publicly applauded efforts by local officials to deny essential housing-related services to individuals like Plaintiff Doe #1 and Plaintiff Doe #2, precisely because these acts will have the effect of driving Plaintiffs and other similarly situated people out of Alabama. As Representative Hammon explained this October when he was asked his views on new policies by certain public utilities to deny services to undocumented individuals under Section 30:

Our goal [through Section 30] was to prevent any business transactions with any governments. It’s just an extension of the goal of the entire bill—to prevent illegal immigrants from coming to Alabama and *to discourage those that are here from putting down roots. . . . It seems to be working. . . . We’re seeing a lot of illegal immigrants self-deport.*

C. Complying with Alabama’s Manufactured Homes Statute Constitutes a “Business Transaction” with the State, Which Is Forbidden to Undocumented Immigrants Under HB 56 Section 30.

70. The process of submitting a payment for the annual manufactured home registration fee and obtaining a current identification decal, as required by Alabama Code Section 40-12-255(a), is a “business transaction with the State” subject to HB 56 Section 30(a).

71. Applying for a moving permit pursuant to Alabama Code Section 40-12-255(j) is also a “business transaction with the State” subject to HB 56 Section 30(a).

72. Thus, the enforcement of HB 56 Section 30 will harm individuals who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status. Such individuals will be denied the rights to make an annual manufactured home registration payment, obtain a current identification decal, and apply for a moving permit.

73. Without a current registration payment and identification decal, any individual who owns, maintains, or keeps a manufactured home in Alabama will be subject to serious repercussions, including fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code § 40-12-255(a), (l); §§ 13A-5-7 and 13A-5-12.

74. Without a moving permit, an individual who attempts to transport a manufactured home on public roads in Alabama is subject to fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code §§ 40-12-255(j)(1) and (4); §§ 13A-5-7 and 13A-5-12.

75. In addition, an individual without documentation of U.S. citizenship or lawful immigration status who attempts to submit an annual manufactured home registration payment, obtain a current identification decal, or apply for a moving permit may be charged with a Class C felony and imprisoned for up to ten years under HB 56. HB 56 § 30(b), (d); Ala. Code § 13A-5-6.

76. An individual who attempts to submit a registration payment, obtain a current identification decal, or apply for a moving permit on behalf of an undocumented immigrant will likewise be charged with a Class C felony and can be sentenced to a ten-year prison term. *Id.*

77. Defendant Harper, in his capacity as the Revenue Commissioner of Elmore County, has announced a policy pursuant to HB 56 Section 30 of requiring proof of U.S. citizenship or lawful immigration status in order for an individual to make an annual manufactured home registration payment and obtain a current identification decal. Defendant Harper's policy makes it impossible for Plaintiffs Doe #1 and Doe #2 to comply with Alabama Code Section 40-12-255 because they are not allowed to submit their annual registration payments or obtain a current identification decal.

78. Section 30 of HB 56 applies statewide. Thus the same policy described in the preceding paragraph will be and is already being faced by every member of the Class and Subclass, regardless of which county they live in. In each of these counties, Defendant Magee is responsible for supervising and directing the work of the county revenue commissioners from whom Class and Subclass members must obtain identification decals for their manufactured homes.

D. Section 30 of HB 56 Is Federally Preempted.

79. The federal government has exclusive power over immigration matters. The U.S. Constitution grants the federal government the power to "establish a uniform Rule of Naturalization," U.S. Const. art. I § 8, cl. 4, and to "regulate Commerce with foreign Nations," U.S. Const. art. I § 8, cl. 3. In addition, the Supreme Court has held that the federal government's power to control immigration is inherent in the nation's sovereignty.

80. Congress has created a comprehensive system of federal laws, agencies, and procedures regulating immigration. *See generally* Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

81. The extensive statutory scheme created by the INA leaves no room for supplemental state immigration laws. A state law that regulates the terms and conditions under which non-citizens may remain in the State are preempted as an impermissible regulation of immigration.

82. State laws, like Section 30, that encroach on areas where Congress has indicated an intent to occupy the field—such as the regulation of the residence of non-citizens—are preempted. As are state laws that conflict with federal immigration law.

83. Section 30 of HB 56 dramatically alters the conditions under which non-citizens may remain in Alabama. By specifically requiring all non-citizens to prove that they have lawful status in order to obtain a manufactured home decal, this Section fundamentally affects the terms and conditions under which non-citizens may remain in a dwelling in the State.

84. Furthermore, certain categories of non-citizens, like Plaintiffs Doe #1 and Doe #2 and the members of the Class and Subclass, are unable to continue to live in their homes under this regime without threat of fines, penalties, or criminal prosecution. As such, Section 30 fundamentally alters the rights of residence of the members of the Class and Subclass and the individual Plaintiffs.

85. As Section 30 is currently being implemented to deny decals to manufactured home owners in the State, local officials are being required to make independent determinations of immigration status—a complex task for which they are not equipped, trained, or authorized to undertake. This is because in determining whether an individual attempting to renew their manufactured home registration is a U.S. citizen or lawful immigrant, state and local officials do not have access to federal databases on immigration and citizenship status. Instead, these state

and local officials are scrutinizing documents and making their own conclusions about individuals' citizenship and immigration status—determinations they are not trained to make.

86. Under the INA, a non-citizen's immigration status may be fluid and subject to change over time. A non-citizen who enters the United States with authorization, with a student visa for example, may remain in the country past his period of authorized stay and thus no longer be in status. Alternatively, he may overstay his original visa yet remain in status; for example, if he is eligible to and does change into a different visa classification. Conversely, a non-citizen who enters the United States without authorization, for example by crossing into the country by foot while evading border authorities, may subsequently gain lawful status, such as through a successful asylum application or grant of Temporary Protected Status.

87. The fluidity of immigration status is a fundamental feature of federal immigration law. It is a direct and unavoidable consequence of the system of immigration regulation that Congress has prescribed. This feature, moreover, accommodates many important national interests including, for example, the nation's humanitarian and international law obligations regarding asylum seekers and people fleeing torture.

88. Section 30 of HB 56 presumes that immigration status is definite, not subject to nuance, and readily and quickly ascertained. But those presumptions are not accurate.

89. Moreover, whether a person is a citizen of the United States is not always easily ascertained in the contexts demanded by Section 30 of HB 56. U.S. citizens are not required to carry documentary proof of their citizenship. Section 30 requires utilization of a list of documents, *see* HB 56 §§ 30(c), 29(k), but there is no guarantee that every U.S. citizen will possess one of these documents.

90. Furthermore, there is no national database that contains information about every U.S. citizen. Some people are actually unaware of their U.S. citizenship because they may have acquired U.S. citizenship at birth by operation of law due to their parents' citizenship, despite not having been born in the United States. *See, e.g.*, 8 U.S.C. § 1431. Others automatically obtain citizenship when their parents become naturalized U.S. citizens. *See, e.g.*, 8 U.S.C. § 1433.

91. The federal government has a core, constitutionally protected interest in setting a uniform federal immigration scheme, and in conducting foreign relations with other nations. State immigration laws interfere with these core interests.

92. Because the United States' immigration policy is inextricably intertwined with foreign relations, Alabama's attempt to regulate immigration through Section 30 of HB 56 will adversely impact the United States' ability to conduct foreign relations with other countries. HB 56 will undermine the ability of the U.S. government to speak with a single voice about immigration, including communicating to foreign nations as to what their nationals can expect when they come to visit or reside in the United States. State attempts to interfere with these inherently federal issues can have severe impacts on foreign relations.

E. Defendants' Enforcement of Section 30 of HB 56 Has a Disproportionate Adverse Impact on Alabama Latinos.

93. Defendants' enforcement of Section 30 of HB 56 as alleged above in Paragraphs 70-78 has a disproportionate adverse impact on Latinos in the State.

94. In Alabama, Latinos are significantly more likely than any other group to live in manufactured homes. Nearly a third (27.6%) of all Latinos living in Alabama reside in the U.S. census housing category "Mobile home, boat, RV, van, etc.," compared to 14.3% of non-Latino

Caucasians, 10.2% of non-Latino African Americans, and 3.2% of Asians. Considering the population of Alabama as a whole, only 13.5% of the population lives in mobile homes.²

95. Latinos are overrepresented among Alabama’s foreign-born, non-U.S. citizen population. Latinos make up almost 45% of Alabama’s foreign-born, non-naturalized population, whereas the total population of Alabama is less than 4% Latino. Approximately 65% of Alabama’s non-U.S. citizen population is Latino.

96. Of Alabama’s undocumented immigrant population, a large majority are Latino. Nationwide, approximately 77% of all undocumented immigrants are Latino.

INJURIES TO THE NAMED PLAINTIFFS

A. Harm to Individual Named Plaintiffs

97. Plaintiff Doe #1 and Plaintiff Doe #2 own and live in manufactured homes located in Elmore County, Alabama.

98. Because of Defendant Harper’s policy, Plaintiff Doe #1 and Plaintiff Doe #2 face an impossible quandary. If they attempt to submit the annual registration payment and to obtain a current identification decal as required by Alabama Code Section 40-12-255(a), and/or to obtain a moving permit in order to move their manufactured homes out of Alabama by traveling on public roads, they will be subject to the harsh penalties established in HB 56 Section 30(d), and they will be denied the decal or permit for which they would be applying. If Plaintiff Doe #1 and Plaintiff Doe #2 fail to obtain a current identification decal and/or attempt to move their manufactured homes out of Alabama by traveling on public roads without a moving permit, they will be subject to similarly draconian penalties established in Alabama Code Section 40-12-255(a), (j), and (l).

² Under Alabama law a mobile home is a “manufactured home” subject to Alabama Code Section 40-12-255.

99. If subjected to the enforcement of HB 56 Section 30, Plaintiff Doe #1 and Plaintiff Doe #2 could be forced to abandon their housing and permanently forfeit their manufactured homes, because there will be no way for them to come into compliance with Alabama Code Section 40-12-255(a). Under Section 27 of HB 56, these Plaintiffs will not be able to sell their homes if they are forced to leave the manufactured home parks where they now live with their families.

100. Plaintiff Doe #1 wants to comply with Alabama Code Section 40-12-255 but knows he cannot do so if Defendants continue their policy of enforcing HB 56 Section 30.

101. Plaintiff Doe #1 fears that if he is unable to obtain a current identification decal, he and his partner and their U.S.-citizen son will have to abandon their home in order to avoid the fines, penalties, and criminal charges that are authorized under Alabama Code Section 40-12-255 for failure to display a valid identification decal.

102. Plaintiff Doe #1 does not know where else he could find housing if he had to give up his current home. He and his partner would have to leave behind their jobs and their church community and would have to pull their U.S.-citizen son out of school. Plaintiff Doe #1 is afraid that his son's education would be jeopardized if his family had to leave their home in Elmore.

103. Since the adoption of HB 56, Plaintiff Doe #1, his partner, and his son have suffered continuing anxiety and fear.

104. Plaintiff Doe #2 wants to do what is required under Alabama Code Section 40-12-255, but he is unable to make the annual registration payment and obtain a current decal because of Defendants' policy of enforcing Section 30 of HB 56.

105. Plaintiff Doe #2 is afraid that he will be fined, imprisoned, or deported if he cannot make the annual registration payment and obtain a current identification decal for his manufactured home, where he lives with his partner, son, and five extended family members.

106. Plaintiff Doe #2 fears that because of Defendants' challenged acts, he and his family may have to abandon their home, without being able to sell it. Plaintiff Doe #2 does not know where he and his family could move if they can no longer live in their home in Millbrook. He is worried that he would not be able to find work to support his family, and he does not want to make his young U.S.-citizen son leave his school and his friends.

107. Plaintiff Doe #2 fears that his partner and son's well-being will suffer if Plaintiff Doe #2 is detained or deported, pursuant to Defendants' enforcement of Section 30 of HB 56.

108. Because they will not have current decals on the outside of their homes, Plaintiffs Doe #1 and Doe #2 will be involuntarily yet conspicuously in violation of their lawful obligations under Alabama Code Section 40-12-255. Being forced to be visibly out of compliance with the law will significantly heighten the exposure of Plaintiffs Doe #1 and Doe #2 and their families to law enforcement, who pursuant to the new authority conferred by Section 12 of HB 56 are obligated "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States," to make inquiries into that person's citizenship and immigration status. HB 56 § 12(a). Plaintiffs Doe #1 and Doe #2 thus face an increased risk of arrest and detention because of Defendants' enforcement of HB 56 Section 30.

B. Harm to Organizational Plaintiffs

109. Defendants' enforcement of HB 56 Section 30 has harmed and will continue to harm Plaintiffs CAFHC, FHCNA, and CFH.

110. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CAFHC's mission of promoting understanding of and enforcing fair housing laws. In order to counteract the effects of Defendants' acts by educating people about their rights, Plaintiff CAFHC staff members have had to spend time researching the enforcement policies adopted by different counties in Alabama, the criminal and fair housing implications of the law, and related state-law requirements applicable to manufactured homes. Plaintiff CAFHC personnel have also prepared for and presented at know-your-rights training sessions to speak about HB 56 Section 30 to people who live in manufactured home residents and drafted an educational flyer with information about HB 56 Section 30 and manufactured home decals.

111. The need for these counteraction activities that are in specific response to Defendants' enforcement of HB 56 Section 30 have prevented or delayed Plaintiff CAFHC from working on other projects that it would have completed, including finalizing an Analysis of Impediments, pursuant to a contract awarded by the City of Montgomery; pursuing a planned program to conduct testing for race and disability based housing discrimination in the middle region of Alabama; and participating in a mortgage lending training session.

112. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff FHCNA's mission of eliminating housing discrimination. In order to counteract the discriminatory and unlawful impact of Defendants' acts on the communities it serves, Plaintiff FHCNA will have to divert scarce resources away from regularly planned activities by, *inter alia*, realigning its testing program to target discrimination based on national origin against residents of manufactured home parks, readjusting its client intake counseling to provide information and assess the impacts of HB 56 Section 30 on manufactured home residents, and meeting with community and civil rights groups regarding the impacts that HB 56

Section 30 is having on residents of manufactured homes. In response to HB 56 Section 30 Plaintiff FHCNA has engaged and is engaging in communications with HUD to seek guidance on the fair housing implications of the law and is preparing know-your-rights materials.

113. Because Plaintiff FHCNA is devoting and will continue to devote its limited resources to the activities described in the preceding paragraph, it has been unable to engage in regularly planned programs including testing in fields that it had planned to investigate, such as sales and insurance, and engaging in normal outreach and client intake.

114. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CFH's mission, which is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants' rights, and lending practices. In order to counteract the discriminatory and harmful impact of HB 56 on the communities it serves, Plaintiff CFH has had to reach out to organizations that work with immigrant communities, and it has participated in meetings to discuss the applicability of HB 56 Section 30 to manufactured homes. Plaintiff CFH has spent time researching HB 56 Section 30 and its impact on manufactured home residents, and it has been in communication with HUD regarding problems associated with HB 56's housing restrictions. Plaintiff CFH has also applied to realign its funding from a focus on predatory lending to a focus on outreach and enforcement regarding national origin discrimination in order to respond to HB 56's discriminatory housing restrictions, including Section 30.

115. These counteraction activities have prevented and delayed Plaintiff CFH from working on other planned projects, such as conducting general rental testing and routine outreach activities and conducting education and outreach on other issues.

CLASS ALLEGATIONS

116. Plaintiffs Doe #1 and Doe #2 have filed this Complaint as a class action pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

117. Plaintiffs Doe #1 and Doe #2 request that this Court certify a Class of all similarly situated individuals. The proposed Class definition is: All individuals who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home in Alabama.

118. Plaintiffs Doe #1 and Doe #2 further request that the Court certify a Latino Subclass with the following definition: All Latinos who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home.

119. This action is properly maintained as a class action because:

(a) Joinder of all members of the Class and Latino Subclass is impracticable because of the size of the Class and Subclass.

(i) The Class comprises more than 40 households.

(ii) The Latino Subclass comprises more than 40 households.

(b) The claims alleged on behalf of the Class and Latino Subclass raise questions of law and fact that are common to the Class and Subclass.

(i) All Class members will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.

- (ii) The members of the Latino Subclass are of the same race and national origin. The enforcement of Section 30 of HB 56 is intentionally targeted at members of the Subclass because of their Latino race and national origin, and it will have a disproportionate adverse impact on members of the Subclass.
- (c) The claims of the Class representatives are typical of the Class and Subclass.
- (i) Like the members of the Class, Plaintiffs Doe #1 and Doe #2 will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.
 - (ii) Like the members of the Latino Subclass, Plaintiffs Doe #1 and Doe #2 are Latinos who will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution, due to the discriminatory intent and effect of Defendants' enforcement of Section 30 of HB 56, on grounds of Subclass members' Latino race and national origin.
- (d) The Class and Latino Subclass representatives and Class counsel will fairly and adequately represent the interests of the Class and Subclass. The Class and Latino Subclass representatives have no interests that are antagonistic to the interests of other Plaintiffs, and Class counsel have substantial experience in civil rights and class action litigation.

120. Class-wide declaratory and injunctive relief is appropriate for the Class because Defendants have acted or refuse to act on grounds generally applicable to the Class as a whole.

Defendants have applied and will apply the same policy, custom, and/or practice to all Class members.

121. Class-wide declaratory and injunctive relief is appropriate for the Latino Subclass because Defendants have acted or refuse to act on grounds generally applicable to the Subclass as a whole. Defendants have applied and will apply the same policy, custom, and/or practice to all Latino Subclass members.

122. There are questions of law or fact common to all of the members of the Class and Latino Subclass that predominate over any questions affecting only individuals and a class action is superior to other methods for a fair and efficient adjudication of the controversy. Common questions of law or fact predominate and the controversy is most fairly and efficiently adjudicated via class action because all Class and Latino Subclass members will be subject to the same fines, penalties, and threat of criminal prosecution for the same conduct.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

**For Injunctive and Declaratory Relief under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants**

On Behalf of All Named Plaintiffs and the Latino Subclass

123. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

124. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, maintains, or keeps a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

125. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make registration payments and apply for a manufactured home decal or a moving permit.

126. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits to Plaintiffs Doe #1, Doe #2 and the Latino Subclass will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Injunctive and Declaratory Relief Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of All Named Plaintiffs and the Latino Subclass

127. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

128. Section 40-12-255 of the Alabama Code requires anyone who owns, maintains, or keeps a manufactured home to obtain a decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

129. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make an annual registration fee payment or apply for a manufactured home decal or a moving permit.

130. Defendants' enforcement of Section 30 of HB 56 against Plaintiffs Doe #1, Doe #2, and the Latino Subclass by refusing to accept their annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing occupied by Latino Subclass members, because of their race and national origin, in violation of 42 U.S.C. § 3604(b).

THIRD CAUSE OF ACTION
For Injunctive and Declaratory Relief Under U.S. Const., Art. VI, cl. 2
Against All Defendants
On Behalf of All Named Plaintiffs and the Class

131. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 35-69, 79-92, 97-115, 117, 119-120, and 122 above.

132. The Supremacy Clause, Article VI, Section 2, of the U.S. Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

133. The Supremacy Clause mandates that federal law preempts state law in any area over which Congress expressly or impliedly has reserved exclusive authority or which is constitutionally reserved to the federal government, or where state law conflicts or interferes with federal law.

134. Section 30 of HB 56 makes it a crime for certain non-citizens, including Plaintiffs Doe #1, Doe #2, and members of the Class, to make an annual registration payment or apply for a manufactured home decal or moving permit.

135. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns or maintains a manufactured home to obtain a decal by or before November 30 of each year.

136. The inability to obtain a decal will make housing unavailable to Plaintiffs Doe #1, Doe #2, and members of the Class.

137. Section 30 of HB 56 regulates the terms and conditions under which non-U.S. citizens may remain in Alabama.

138. Section 30 is an impermissible state regulation of immigration, and therefore usurps powers constitutionally vested in the federal government exclusively.

139. Section 30 also conflicts with federal laws, regulations, and policies; attempts to legislate in a field occupied by the federal government; imposes burdens and penalties on legal residents not authorized by and contrary to federal law, and unilaterally imposes burdens on the federal government's resources and processes, each in violation of the Supremacy Clause.

140. Plaintiffs move for relief on this claim directly under the Constitution and also under 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION
For Injunctive and Declaratory Relief Under 42 U.S.C. § 1983 and
U.S. Const., Amend. XIV § 1, cl. 3
Against All Defendants
On Behalf of Plaintiff Doe #1, Plaintiff Doe #2, and the Class

141. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-54, 70-78, and 97-108, 117, 119-120, and 122 above.

142. Defendants' enforcement of Section 30 of HB 56 prohibits Plaintiffs Doe #1, Doe #2, and the Class from complying with the requirements under Alabama Code Section 40-12-255 to pay an annual registration fee and to obtain and prominently display a current manufactured home identification decal. Without a current identification decal, Plaintiffs Doe #1, Doe #2, and the Class will be subject to the penalties established in Alabama Code Section 40-12-255(a) and (k).

143. Defendants' enforcement of Section 30 of HB 56 will force Plaintiffs Doe #1, Doe #2, and the Class to abandon their housing and permanently forfeit their manufactured homes, because they cannot come into compliance with Alabama Code Section 40-12-255(a) or (j).

144. Under Section 27 of HB 56, the individual Plaintiffs and the Class will be unable to sell their homes before abandoning and forfeiting them.

145. Defendants' enforcement of HB 56 Section 30 against Plaintiffs Doe #1, Doe #2, and the Class has deprived and/or will deprive them of their property without substantive due process, in violation the Due Process Clause of the Fourteenth Amendment.

146. Defendants' enforcement of HB 56 Section 30 is pursuant to their official capacities as state actors under color of law and is therefore actionable under the Fourteenth Amendment through 42 U.S.C. § 1983.

FIFTH CAUSE OF ACTION
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants
On Behalf of All Named Plaintiffs

147. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

148. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

149. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

150. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

151. Defendants' violations of 42 U.S.C. § 3604(a) have caused and will continue to cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to compensatory damages under 42 U.S.C. § 3613(c).

SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of the Named Plaintiffs

152. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

153. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

154. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1 and Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

155. Defendants' enforcement of Section 30 of HB 56 by refusing to accept annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing on the basis of race and national origin, in violation of 42 U.S.C. § 3604(b).

156. Defendants' violations of 42 U.S.C. § 3604(b) have caused and will cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to damages under 42 U.S.C. § 3613(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

(1) Issue a temporary restraining order and preliminary injunction immediately enjoining the enforcement of HB 56 Section 30 statewide against Plaintiffs and the Class and Latino Subclass;

(2) Order Defendant Magee to immediately notify all county officials who are responsible for enforcing the manufactured home registration requirements of Section 40-12-255 of the Alabama Code if said temporary restraining order and preliminary injunction is entered;

(3) Certify the Class and Subclass;

(4) Enter a declaratory judgment finding that Defendants' enforcement of HB 56 Section 30 violates the Fair Housing Act, 42 U.S.C. § 3604(a) and (b); the Supremacy Clause of Article VI of the U.S. Constitution; the Due Process Clause of Amendment XIV of the U.S. Constitution; and 42 U.S.C. § 1983.

(5) Enter a permanent injunction enjoining Defendants from enforcing Section 30 of HB 56;

(6) Award compensatory damages to Plaintiffs Doe #1, Doe #2, CAFHC, FHCNA, and CFH for their claims for damages under 42 U.S.C. § 3604(a) and (b);

(7) Award Plaintiffs their reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988 and 3613(c)(2); and

(8) Order such other relief as this Court deems just and equitable.

Dated: November 18, 2011

Respectfully submitted,

s/ Mary Bauer

Mary Bauer

On Behalf of Counsel for Plaintiffs

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* *Pro hac vice* admission to be sought

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

CENTRAL ALABAMA FAIR HOUSING
CENTER;

FAIR HOUSING CENTER OF NORTHERN
ALABAMA;

CENTER FOR FAIR HOUSING, INC.; and

JOHN DOE #1 and JOHN DOE #2, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

JULIE MAGEE, in her official capacity as
Alabama Revenue Commissioner, and

WILLIAM HARPER, in his official capacity
as Elmore County Revenue Commissioner,

Defendants.

Civil Action File No.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF
AND FOR DAMAGES**

CLASS ACTION

NATURE OF THE ACTION

1. This is a civil rights action for declaratory and injunctive relief brought by Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, Center for Fair Housing, Inc., John Doe #1, and John Doe #2 for violations of the federal Fair Housing Act, 42 U.S.C. § 3601 et seq., and the Supremacy Clause and Due Process Clause of the U.S. Constitution.

2. Plaintiff John Doe #1 is an undocumented immigrant from Mexico. He owns and resides in a manufactured home in Elmore County, Alabama, along with his partner, five-year-old U.S.-citizen son, and sixteen-year-old nephew.

3. Plaintiff John Doe #2 is an undocumented immigrant from Mexico. Like Plaintiff Doe #1, Plaintiff Doe #2 owns and resides in a manufactured home in Elmore County, along with his partner, his five-year-old U.S.-citizen son, and his partner's parents and three brothers.

4. This action is brought against Defendant Julie Magee in her official capacity as Alabama Revenue Commissioner and Defendant William Harper in his official capacity as the Revenue Commissioner of Elmore County, Alabama.

5. Section 30 of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Laws 535 (commonly referred to as "HB 56"), forbids "[a]n alien not lawfully present in the United States" from entering into or attempting to enter into "any transaction . . . [with] the state or a political subdivision of the state," with the sole exception of obtaining a marriage license.¹ It further forbids any person from entering into or attempting to enter into such a transaction on behalf of an "alien not lawfully present in the United States." An individual found in violation of Section 30 can be convicted of a Class C felony and subjected to up to ten years' imprisonment.

6. Section 40-12-255 of the Alabama Code requires that all individuals who own, maintain, or keep a manufactured home in Alabama engage in a "transaction" with the State, within the meaning of Section 30 of HB 56. Specifically, by no later than November 30 of each calendar year, any such person must pay an annual registration fee and display a current identification decal in a conspicuous location on the outside of her manufactured home. Section 40-12-255 imposes progressive fines and penalties for non-compliance, including imprisonment.

¹ A copy of the enrolled Bill is attached as Attachment 1. HB 56 has not been codified yet but is unofficially reported in electronic databases at Ala. Code § 31-13-1 *et seq.* (West 2011) and Ala. Code § 31-9C-1 *et seq.* (Michie/LexisNexis 2011).

7. Defendants Magee and Harper have adopted and implemented a policy, pursuant to the requirements of Section 30 of HB 56, to reject annual manufactured home registration payments from, and thus deny identification decals to, individuals who are unable to demonstrate U.S. citizenship or lawful immigration status. In other words, Defendants' policy treats the act of complying with Alabama Code § 40-12-255 as a "business transaction" under HB 56 Section 30.

8. Until the passage and implementation of Section 30 of HB 56, Plaintiffs Doe #1 and Doe #2 were allowed to register their manufactured homes pursuant to Alabama Code Section 40-12-255.

9. Defendants' policy for enforcing HB 56 Section 30 makes it impossible for Plaintiffs Doe #1 and Doe #2 to make the annual registration payment and obtain current identification decals for their manufactured homes, as they are required to do under Alabama Code Section 40-12-255 by no later than November 30, 2011. If Plaintiffs Doe #1 and Doe #2 attempt to pay their annual registration fees in order to obtain current identification decals, they could face Class C felony charges for attempting to enter into a transaction with the State, in violation of HB 56 Section 30. But if Plaintiffs Doe #1 and Doe #2 do not pay the annual registration fee and do not display a current identification decal by November 30, 2011, they will face fines, penalties, and Class C misdemeanor charges for violating the Manufactured Homes statute, Alabama Code Sec. 40-12-255.

10. Defendants' policy of enforcing HB 56 Section 30 further makes it impossible for Plaintiffs Doe #1 and Doe #2 to move their manufactured homes on public roads in Alabama. Under subsection (j) of the Manufactured Homes Statute, a permit is required to make such a move, yet any effort to obtain a moving permit would also constitute a "business transaction"

within the meaning of Section 30 of HB 56. Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor under Alabama Code Section 40-12-255(j)(4).

11. Section 27 of HB 56 makes unenforceable in Alabama courts virtually any contract that takes more than 24 hours to complete and is entered into where the parties know or should have known that one of them is a non-U.S. citizen who lacks proof of lawful immigration status.

12. In the event of eviction from the manufactured home parks where they currently reside, Plaintiffs Doe #1 and Doe #2 may therefore be forced to abandon their homes because under HB 56 they cannot lawfully move them, and any sale contract may be unenforceable.

13. Plaintiffs Doe #1 and Doe #2 bring this case on behalf of themselves and a Class of similarly situated residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

14. Plaintiffs Doe #1 and Doe #2 also bring this case on behalf of themselves and a Subclass of similarly situated Latino residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

15. Defendants' policy of enforcing Section 30 so as to refuse annual registration payments from and to deny manufactured home identification decals to individuals who cannot demonstrate U.S. citizenship or lawful immigration status will cause immediate and irreparable harm to Plaintiffs Doe #1 and Doe #2 and their families, as well as to similarly situated individuals who own, maintain, or keep manufactured homes in Alabama.

16. Defendants' policy of enforcing Section 30 so as to refuse to accept annual registration payments from, and to deny manufactured home identification decals to, members of

the Class and Subclass has injured and will continue to injure organizational Plaintiffs Central Alabama Fair Housing Action Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc. These Plaintiffs have already diverted and will be forced to continue to divert scarce resources away from their core activities in order to conduct education, outreach, and advocacy on behalf of communities throughout Alabama concerning the impact of HB 56 Section 30 on immigrants who live in manufactured homes and who face fines, penalties, and the threat of criminal prosecution if they cannot pay their annual registration fees and receive the required identification decals.

17. Defendants' policy pursuant to HB 56 of refusing annual registration payments from and denying current identification decals to individuals who live in manufactured homes and who cannot show proof of U.S. citizenship or lawful immigration status violates the Fair Housing Act, the Supremacy Clause of the U.S. Constitution, and the Due Process Clause of the U.S. Constitution.

JURISDICTION AND VENUE

18. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(a)(4), 2201, 2202, and 42 U.S.C. § 3613(a)(1)(A).

19. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 81 and 1391(b). Defendant Magee and Defendant Harper reside in this State; Defendant Harper is employed in this District and Division as a County official; and Defendant Magee is employed in this District and Division as a State official. A substantial part of the events and omissions giving rise to Plaintiffs' claims have occurred and/or will occur in this District and Division.

PARTIES

Organizational Plaintiffs

20. The three organizational Plaintiffs collectively provide fair housing services in nearly every county within Alabama. Their core activities include advocating for equal housing opportunities, assisting victims of housing discrimination, and enforcing compliance with the federal Fair Housing Act and related fair housing laws.

21. **Plaintiff Central Alabama Fair Housing Center** (“CAFHC”) is an Alabama non-profit corporation, with its principal place of business in Montgomery, Alabama. Founded in 1995, CAFHC’s mission is to promote understanding of the Fair Housing Act and to enforce the Fair Housing Act. It advances that mission through educational activities including speaking to community groups and individuals most likely to experience housing discrimination, training housing providers in fair housing issues, and conducting intake and investigations.

22. Plaintiff CAFHC provides fair housing services in the following Alabama Counties: Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Greene, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Sumter, Tallapoosa, and Wilcox.

23. **Plaintiff Fair Housing Center of Northern Alabama** (“FHCNA”) is an Alabama non-profit corporation, with its principal place of business in Birmingham, Alabama. Plaintiff FHCNA was founded in 1993. Its mission is the elimination and eradication of housing discrimination through education and enforcement activities. FHCNA seeks to ensure that all individuals who seek housing are given fair and equal access to housing of their choice. In furtherance of this mission, Plaintiff FHCNA hosts public seminars for housing providers and

community members, engages in outreach activities, undertakes investigations, and files administrative complaints. Plaintiff FHCNA provides fair housing services in the following Alabama Counties: Blount, Calhoun, Cherokee, Colbert, Cullman, DeKalb, Etowah, Fayette, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker, and Winston.

24. **Plaintiff Center for Fair Housing, Inc.** (“CFH”) is an Alabama non-profit corporation, founded in 1998, with its principal place of business in Mobile, Alabama. CFH’s mission is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants’ rights, and fair lending practices, in order to promote healthier and more inclusive communities. Plaintiff CFH provides these fair housing services in the following Alabama Counties: Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

Individual Plaintiffs

25. **Plaintiff John Doe #1** resides in Elmore County in a manufactured home that he owns. He lives with his partner and five-year-old son, who is a U.S. citizen. Plaintiff Doe #1 is originally from Mexico and came to the United States approximately eight years ago. He rents a lot for his manufactured home in Elmore, Alabama.

26. **Plaintiff John Doe #2** resides in Elmore County in a manufactured home that he owns. Plaintiff Doe #2 came to the United States from Mexico in 2002. He rents a lot for his manufactured home in Millbrook, Alabama, where he lives with his partner, their five-year-old son, and his partner’s parents and three brothers. Plaintiff Doe #2’s son is a U.S. citizen.

Defendants

27. **Defendant Julie Magee** is the Revenue Commissioner for the State of Alabama. As the head of the Alabama Department of Revenue, she is charged with carrying out the duties of the Department, which by Alabama law include “general and complete supervision and control of,” *inter alia*, “the collection of all property, privilege, license, excise, intangible, franchise, or other taxes for the state and counties.” Ala. Code § 40-2-11(1). Defendant Magee is responsible for supervising and directing the work of all state and county officials who are charged with the assessment and collection of taxes, including the manufactured home registration fee at issue in this case. She is sued in her official capacity.

28. **Defendant William Harper** is the Revenue Commissioner for Elmore County, Alabama. He is responsible for collecting payments and issuing manufactured home registration decals to manufactured home owners who reside in Elmore County. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. Alabama’s Manufactured Homes Statute

29. In Alabama, a “manufactured home” is subject to the requirements of Section 40-12-255 of the Alabama Code. Section 40-12-255(a) requires that any “person, firm, or corporation who owns, maintains, or keeps . . . a manufactured home” pay an annual registration fee and an issuance fee in order to obtain a current identification decal. The identification decal, which is designed and issued by the Alabama Department of Revenue, is color-coded to indicate the year in which it was issued and must be displayed on the outside of the manufactured home at eye level, so as to be “clearly visible from the street.” *Id.*

30. Under Alabama law, the County official with responsibility for collecting taxes and other assessments has the duty to collect the annual manufactured home registration fees, to issue identification decals, and to impose fines and penalties for late payments. In Elmore County, Defendant Harper is the County official who is assigned these responsibilities.

31. The registration fee and issuance fee are due on October 1 of each year and are considered delinquent if not paid by November 30 of each year. An individual who fails to pay the registration fee and issuance fee by November 30 will be fined a \$10 delinquent fee and a \$15 citation fee. An additional penalty is imposed if the delinquent fee and citation fee are not paid within 15 days of the first citation. Ala. Code § 40-12-255(b). An individual cannot obtain a current identification decal for his or her manufactured home until all outstanding fees and penalties have been satisfied.

32. In addition to the fines and penalties identified above in Paragraph 31, an individual who violates any provision of Section 40-12-255 is guilty of a Class C misdemeanor. Ala. Code § 40-12-255(l). Under Alabama law, a Class C misdemeanor is punishable with a three-month jail term, in addition to a fine of at least \$50 and up to \$500. *Id.*; §§ 13A-5-7 and 13A-5-12.

33. In order to obtain a permit to move a manufactured home on public roads in Alabama, a manufactured home owner must obtain a permit from the County official who administers the manufactured home registration laws in the County where the manufactured home is currently being kept. Proof of payment of the current registration fee, as well as any outstanding fines and penalties, is required to obtain a moving permit. Ala. Code § 40-12-255(j)(1). Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor. § 40-12-255(j)(4).

34. Any state, county or municipal law-enforcement officer, or license inspector is authorized to issue citations for violations of Alabama Code Section 40-12-255, pursuant to Section 40-12-257.

B. Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535

35. On June 2, 2011, the Alabama legislature adopted the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535, a comprehensive state immigration scheme that extensively regulates immigration, immigrants, and those who associate or interact with immigrants. This law is commonly referred to as HB 56.

1. Text of Section 30 of HB 56

36. Section 30 of HB 56 became effective on September 28, 2011.

37. Section 30 of HB 56 defines and utilizes a new legal term, a “business transaction.” HB 56 § 30(a). The term “business transaction” is defined as “*any* transaction between a person and the state or a political subdivision of the state,” with the only exception being for marriage licenses. *Id.* (emphasis added).

38. The term “business transaction” is vaguely defined in exceptionally broad and misleading terms. As defined by statute, it is not limited to transactions involving “business.”

39. The term “business transaction” is broad enough to include numerous transactions with state and local officials that relate to housing, the ability to rent or buy housing, and the provision of services and facilities in connection with housing, therefore implicating compliance with the federal Fair Housing Act and other civil rights laws.

40. Section 30 of HB 56 makes it a Class C felony—punishable by up to ten years’ imprisonment, *see* Ala. Code § 13A-5-6—for an “unlawfully present alien” to enter or attempt to

enter into virtually any transaction with the state or local government agency. HB 56 § 30(b), (d).

41. Section 30 of HB 56 also prohibits a third party from entering or attempting to enter into virtually any transaction with the State or a political subdivision on behalf of an alien not lawfully present in the United States, again at penalty of a Class C felony conviction. *Id.*

42. Section 30 of HB 56 provides that any person entering or attempting to enter into a transaction with the State or a political subdivision of the state shall be required to demonstrate to the person conducting the transaction on behalf of the state/political subdivision that the applicant is a U.S. citizen, or, if he or she is an alien, that he or she has lawful presence in the United States. HB 56 § 30(c).

43. Section 30 of HB 56 further provides that U.S. citizenship must be proven by producing one of an enumerated list of documents. *Id.*; *see also* HB 56 § 29(k). If a person does not possess one of the enumerated documents but is in fact a U.S. Citizen, that person cannot satisfy the proof requirements of Section 30.

44. Section 30 of HB 56 further provides that an alien's lawful presence shall be demonstrated solely by the state or political subdivision's verification of the alien's lawful presence through the Systematic Alien Verification for Entitlements ("SAVE") program operated by the federal Department of Homeland Security ("DHS"), or by other verification with DHS pursuant to 8 U.S.C. § 1373(c). *Id.*

45. SAVE is an inter-governmental initiative designed to aid public benefit-granting agencies in determining an applicant's immigration status, and thereby ensure that only entitled applicants receive federal, state, or local public benefits and licenses.

46. Section 1373(c) of Title 8 of the U.S. Code requires the federal immigration agency to respond to certain immigration status inquiries by state and local agencies. After passage of Section 1373(c), the Immigration and Naturalization Service (now Department of Homeland Security) created the Law Enforcement Support Center to respond to requests for state and local law enforcement officers. There is, however, no system under § 1373(c) to verify citizenship or immigration status for individuals attempting to renew registration of manufactured homes or relating to any housing issues.

47. Neither the federal SAVE system, nor any federal system for status inquiries under § 1373(c), has been authorized by the federal government to verify immigration status in order to disqualify individuals from paying registration fees for manufactured homes or for any related purpose.

48. Moreover, federal determinations made under the SAVE system or any other system set up by § 1373(c), are merely snapshots of an individuals' status at some point prior to the status check and do not provide reliable or accurate immigration status determinations.

49. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner is not enrolled in, and cannot currently utilize, the SAVE program to determine whether manufactured home owners or renters are U.S. citizens or have lawful immigration status.

50. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner are not authorized to use, and cannot currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

51. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees has received approval to use SAVE to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

52. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees can currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

53. As a result, state and local officials are making their own determinations about the applicants' U.S. citizenship or lawful immigration status before allowing them to renew manufactured home registration and are implementing Section 30 in a manner expressly at odds with HB 56.

54. HB 56 does not establish any process by which an individual can challenge a determination by a state or local official that he or she is not "authorized" to be in the United States.

2. History and Intent of Section 30 of HB 56

55. The legislative history of Section 30 of HB 56 reveals a plain legislative intent to drive those suspected of being undocumented immigrants, and in particular minority immigrants of Latino heritage, out of Alabama by making living conditions miserable for them or by funneling them into deportation proceedings.

56. Representative Hammon, who introduced the bill in the House, explained: "This [bill] attacks *every aspect* of an illegal immigrant's life. They will not stay in Alabama [T]his bill is designed to make it difficult for them to live here so they will deport themselves." He also noted, "[W]e do want to affect every aspect of someone's life and make it a little more difficult for them to live here." In no uncertain terms, Representative Hammon stated: "[T]he

intent of this bill is to slow illegal immigration in Alabama through attrition.” He emphasized: “We are going to deter illegal immigrants from the State of Alabama.”

57. Senator Beason, who introduced a similar omnibus immigration bill in the Senate, and who ultimately consolidated his bill with Hammon’s to form HB 56, also expressed his views that the intent of HB 56 was to drive immigrants from the state. In a speech he delivered in February 2011, just before the legislative session commenced, he noted, “The reality is that if you allow illegal immigration to continue in your area you will destroy yourself eventually If you don’t believe illegal immigration will destroy a community go and check out parts of Alabama around Arab and Albertville.”

58. Section 30 of HB 56 is designed to achieve these goals by making it impossible for undocumented immigrants who reside in manufactured homes to continue living in this State.

59. The entirety of HB 56, including Section 30, is specifically targeted at making Latinos leave Alabama. The State officials who enacted and are implementing Section 30 of HB 56 knew that Section 30, and HB 56 in its entirety, would have the greatest impact on Latino immigrants. Latinos make up a majority of the State’s foreign-born population. And although only a small percentage of Latino immigrants in Alabama are undocumented, a majority of Alabama’s undocumented population is Latino.

60. Representative Rich, who voted for the bill, remarked that although he “like[s] Hispanic people,” “95 percent of the children that are in the elementary school at Crosswell Elementary School are Hispanic, 95 percent of them. 52 percent of the children that attend Albertville Elementary and Primary School are Hispanic, and the biggest part of them are illegal.” Representative Rich did not identify a source of information or any other factual basis for his allegation that “the biggest part of” the school children discussed were undocumented.

61. Contrary to Representative Rich’s assertion, in Alabama approximately 85% of all children whose parents are not lawfully present in the United States are U.S. citizens.

62. Representative Hammon has also conflated Latinos with undocumented immigrants. For example, on June 2, 2011, the date that the House of Representatives passed the final version of HB 56, Representative Hammon explained the need for the bill by claiming that “the illegal immigration population in Alabama is the second fastest growing in the country and the people in our state need jobs back.” When asked for evidence to substantiate this claim, he pointed to a news article that observed that the State’s *Latino* population had grown by 145% from 2000 to 2010, the second highest percentage of growth in the country for that ten-year period. The article did not, however, discuss any data or studies of undocumented immigrant populations. It was limited to a discussion of Alabama’s Latino population.

63. Similarly, Senator Beason singled out Arab and Albertville, both of which are in Marshall County, as examples of communities that have allegedly been destroyed by the presence of undocumented persons. Senator Beason’s comments were in no uncertain terms directed at Latino immigrants. Compared to the rest of the State, Marshall County has a large Latino population: 12% of Marshall County residents are Latino, compared to less than 4% of the State population. Moreover, Marshall County has no other significant immigrant population.

64. Those who opposed the legislation likewise understood that it took aim at Mexicans and other Latinos. Senator Singleton observed: “[T]he fact of the matter is that we know that when we talk about illegal immigration that it is basically targeted at one ethnic group and that seems to be the Latino Hispanic Americans” Senator Holmes stated: “The purpose of this bill is . . . these Mexicans [Y]ou all are trying to get as many in here out and trying to stop as many coming in [as you can]” Representative Jackson warned that the effects of HB

56 would reach even further than targeting Latinos: “It just doesn’t stop at the people coming from Mexico. This is not here just for them. This thing is going to have great repercussion for all minorities.”

65. At times supporters of HB 56 have spoken in violent terms about their desire to eradicate immigrants in Alabama. For example, at a town hall meeting this summer after HB 56 passed, Alabama Congressman Mo Brooks stated, in reference to his desire to force undocumented immigrants out of Alabama, that “[a]s your congressman on the house floor, I will do anything short of shooting them.”

66. In enacting HB 56 generally, and Section 30 specifically, Alabama legislated in an area committed exclusively to the federal government under the U.S. Constitution. Indeed, by passing HB 56, Alabama has intruded into an area of exclusive federal control and has sought to supplant the federal government in key respects.

67. Contrary to long-settled law that establishes the federal government’s exclusive role in regulating immigration, Section 30 of HB 56 reflects the view that the State of Alabama should regulate immigration on its own. Alabama has sought to use its self-granted power to attempt to drive people who are perceived to be undocumented out of the State through the denial of housing and housing-related local services. As Representative Hammon stated during legislative debates, “[I]t is the State’s responsibility to handle this issue and not the federal government.” He explained, “[T]his issue is now the responsibility of the State of Alabama and not the federal government.” He explained, in reference to federal immigration law and policy, that “[w]e are not going to depend on a broken system Here in Alabama we are not going to ignore the problem.”

68. HB 56 allows the State of Alabama to take control of immigration enforcement which Alabama has sought to justify by arguing that the federal government has failed to act to the State’s satisfaction. Representative Hammon remarked when he introduced the bill, “[I]t appears that the federal government has defaulted on their responsibility of enforcing federal immigration law. And they have forfeited that right to the States.” Senator Beason concurred with this sentiment, noting in the Senate debates that “[i]f the federal government would enforce their laws that they have on the books, the states would not be required to begin to do things to help enforce those laws.”

69. Representative Hammon, one of the two sponsors of HB 56, has publicly applauded efforts by local officials to deny essential housing-related services to individuals like Plaintiff Doe #1 and Plaintiff Doe #2, precisely because these acts will have the effect of driving Plaintiffs and other similarly situated people out of Alabama. As Representative Hammon explained this October when he was asked his views on new policies by certain public utilities to deny services to undocumented individuals under Section 30:

Our goal [through Section 30] was to prevent any business transactions with any governments. It’s just an extension of the goal of the entire bill—to prevent illegal immigrants from coming to Alabama and *to discourage those that are here from putting down roots. . . . It seems to be working. . . . We’re seeing a lot of illegal immigrants self-deport.*

C. Complying with Alabama’s Manufactured Homes Statute Constitutes a “Business Transaction” with the State, Which Is Forbidden to Undocumented Immigrants Under HB 56 Section 30.

70. The process of submitting a payment for the annual manufactured home registration fee and obtaining a current identification decal, as required by Alabama Code Section 40-12-255(a), is a “business transaction with the State” subject to HB 56 Section 30(a).

71. Applying for a moving permit pursuant to Alabama Code Section 40-12-255(j) is also a “business transaction with the State” subject to HB 56 Section 30(a).

72. Thus, the enforcement of HB 56 Section 30 will harm individuals who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status. Such individuals will be denied the rights to make an annual manufactured home registration payment, obtain a current identification decal, and apply for a moving permit.

73. Without a current registration payment and identification decal, any individual who owns, maintains, or keeps a manufactured home in Alabama will be subject to serious repercussions, including fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code § 40-12-255(a), (l); §§ 13A-5-7 and 13A-5-12.

74. Without a moving permit, an individual who attempts to transport a manufactured home on public roads in Alabama is subject to fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code §§ 40-12-255(j)(1) and (4); §§ 13A-5-7 and 13A-5-12.

75. In addition, an individual without documentation of U.S. citizenship or lawful immigration status who attempts to submit an annual manufactured home registration payment, obtain a current identification decal, or apply for a moving permit may be charged with a Class C felony and imprisoned for up to ten years under HB 56. HB 56 § 30(b), (d); Ala. Code § 13A-5-6.

76. An individual who attempts to submit a registration payment, obtain a current identification decal, or apply for a moving permit on behalf of an undocumented immigrant will likewise be charged with a Class C felony and can be sentenced to a ten-year prison term. *Id.*

77. Defendant Harper, in his capacity as the Revenue Commissioner of Elmore County, has announced a policy pursuant to HB 56 Section 30 of requiring proof of U.S. citizenship or lawful immigration status in order for an individual to make an annual manufactured home registration payment and obtain a current identification decal. Defendant Harper's policy makes it impossible for Plaintiffs Doe #1 and Doe #2 to comply with Alabama Code Section 40-12-255 because they are not allowed to submit their annual registration payments or obtain a current identification decal.

78. Section 30 of HB 56 applies statewide. Thus the same policy described in the preceding paragraph will be and is already being faced by every member of the Class and Subclass, regardless of which county they live in. In each of these counties, Defendant Magee is responsible for supervising and directing the work of the county revenue commissioners from whom Class and Subclass members must obtain identification decals for their manufactured homes.

D. Section 30 of HB 56 Is Federally Preempted.

79. The federal government has exclusive power over immigration matters. The U.S. Constitution grants the federal government the power to "establish a uniform Rule of Naturalization," U.S. Const. art. I § 8, cl. 4, and to "regulate Commerce with foreign Nations," U.S. Const. art. I § 8, cl. 3. In addition, the Supreme Court has held that the federal government's power to control immigration is inherent in the nation's sovereignty.

80. Congress has created a comprehensive system of federal laws, agencies, and procedures regulating immigration. *See generally* Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

81. The extensive statutory scheme created by the INA leaves no room for supplemental state immigration laws. A state law that regulates the terms and conditions under which non-citizens may remain in the State are preempted as an impermissible regulation of immigration.

82. State laws, like Section 30, that encroach on areas where Congress has indicated an intent to occupy the field—such as the regulation of the residence of non-citizens—are preempted. As are state laws that conflict with federal immigration law.

83. Section 30 of HB 56 dramatically alters the conditions under which non-citizens may remain in Alabama. By specifically requiring all non-citizens to prove that they have lawful status in order to obtain a manufactured home decal, this Section fundamentally affects the terms and conditions under which non-citizens may remain in a dwelling in the State.

84. Furthermore, certain categories of non-citizens, like Plaintiffs Doe #1 and Doe #2 and the members of the Class and Subclass, are unable to continue to live in their homes under this regime without threat of fines, penalties, or criminal prosecution. As such, Section 30 fundamentally alters the rights of residence of the members of the Class and Subclass and the individual Plaintiffs.

85. As Section 30 is currently being implemented to deny decals to manufactured home owners in the State, local officials are being required to make independent determinations of immigration status—a complex task for which they are not equipped, trained, or authorized to undertake. This is because in determining whether an individual attempting to renew their manufactured home registration is a U.S. citizen or lawful immigrant, state and local officials do not have access to federal databases on immigration and citizenship status. Instead, these state

and local officials are scrutinizing documents and making their own conclusions about individuals' citizenship and immigration status—determinations they are not trained to make.

86. Under the INA, a non-citizen's immigration status may be fluid and subject to change over time. A non-citizen who enters the United States with authorization, with a student visa for example, may remain in the country past his period of authorized stay and thus no longer be in status. Alternatively, he may overstay his original visa yet remain in status; for example, if he is eligible to and does change into a different visa classification. Conversely, a non-citizen who enters the United States without authorization, for example by crossing into the country by foot while evading border authorities, may subsequently gain lawful status, such as through a successful asylum application or grant of Temporary Protected Status.

87. The fluidity of immigration status is a fundamental feature of federal immigration law. It is a direct and unavoidable consequence of the system of immigration regulation that Congress has prescribed. This feature, moreover, accommodates many important national interests including, for example, the nation's humanitarian and international law obligations regarding asylum seekers and people fleeing torture.

88. Section 30 of HB 56 presumes that immigration status is definite, not subject to nuance, and readily and quickly ascertained. But those presumptions are not accurate.

89. Moreover, whether a person is a citizen of the United States is not always easily ascertained in the contexts demanded by Section 30 of HB 56. U.S. citizens are not required to carry documentary proof of their citizenship. Section 30 requires utilization of a list of documents, *see* HB 56 §§ 30(c), 29(k), but there is no guarantee that every U.S. citizen will possess one of these documents.

90. Furthermore, there is no national database that contains information about every U.S. citizen. Some people are actually unaware of their U.S. citizenship because they may have acquired U.S. citizenship at birth by operation of law due to their parents' citizenship, despite not having been born in the United States. *See, e.g.*, 8 U.S.C. § 1431. Others automatically obtain citizenship when their parents become naturalized U.S. citizens. *See, e.g.*, 8 U.S.C. § 1433.

91. The federal government has a core, constitutionally protected interest in setting a uniform federal immigration scheme, and in conducting foreign relations with other nations. State immigration laws interfere with these core interests.

92. Because the United States' immigration policy is inextricably intertwined with foreign relations, Alabama's attempt to regulate immigration through Section 30 of HB 56 will adversely impact the United States' ability to conduct foreign relations with other countries. HB 56 will undermine the ability of the U.S. government to speak with a single voice about immigration, including communicating to foreign nations as to what their nationals can expect when they come to visit or reside in the United States. State attempts to interfere with these inherently federal issues can have severe impacts on foreign relations.

E. Defendants' Enforcement of Section 30 of HB 56 Has a Disproportionate Adverse Impact on Alabama Latinos.

93. Defendants' enforcement of Section 30 of HB 56 as alleged above in Paragraphs 70-78 has a disproportionate adverse impact on Latinos in the State.

94. In Alabama, Latinos are significantly more likely than any other group to live in manufactured homes. Nearly a third (27.6%) of all Latinos living in Alabama reside in the U.S. census housing category "Mobile home, boat, RV, van, etc.," compared to 14.3% of non-Latino

Caucasians, 10.2% of non-Latino African Americans, and 3.2% of Asians. Considering the population of Alabama as a whole, only 13.5% of the population lives in mobile homes.²

95. Latinos are overrepresented among Alabama’s foreign-born, non-U.S. citizen population. Latinos make up almost 45% of Alabama’s foreign-born, non-naturalized population, whereas the total population of Alabama is less than 4% Latino. Approximately 65% of Alabama’s non-U.S. citizen population is Latino.

96. Of Alabama’s undocumented immigrant population, a large majority are Latino. Nationwide, approximately 77% of all undocumented immigrants are Latino.

INJURIES TO THE NAMED PLAINTIFFS

A. Harm to Individual Named Plaintiffs

97. Plaintiff Doe #1 and Plaintiff Doe #2 own and live in manufactured homes located in Elmore County, Alabama.

98. Because of Defendant Harper’s policy, Plaintiff Doe #1 and Plaintiff Doe #2 face an impossible quandary. If they attempt to submit the annual registration payment and to obtain a current identification decal as required by Alabama Code Section 40-12-255(a), and/or to obtain a moving permit in order to move their manufactured homes out of Alabama by traveling on public roads, they will be subject to the harsh penalties established in HB 56 Section 30(d), and they will be denied the decal or permit for which they would be applying. If Plaintiff Doe #1 and Plaintiff Doe #2 fail to obtain a current identification decal and/or attempt to move their manufactured homes out of Alabama by traveling on public roads without a moving permit, they will be subject to similarly draconian penalties established in Alabama Code Section 40-12-255(a), (j), and (l).

² Under Alabama law a mobile home is a “manufactured home” subject to Alabama Code Section 40-12-255.

99. If subjected to the enforcement of HB 56 Section 30, Plaintiff Doe #1 and Plaintiff Doe #2 could be forced to abandon their housing and permanently forfeit their manufactured homes, because there will be no way for them to come into compliance with Alabama Code Section 40-12-255(a). Under Section 27 of HB 56, these Plaintiffs will not be able to sell their homes if they are forced to leave the manufactured home parks where they now live with their families.

100. Plaintiff Doe #1 wants to comply with Alabama Code Section 40-12-255 but knows he cannot do so if Defendants continue their policy of enforcing HB 56 Section 30.

101. Plaintiff Doe #1 fears that if he is unable to obtain a current identification decal, he and his partner and their U.S.-citizen son will have to abandon their home in order to avoid the fines, penalties, and criminal charges that are authorized under Alabama Code Section 40-12-255 for failure to display a valid identification decal.

102. Plaintiff Doe #1 does not know where else he could find housing if he had to give up his current home. He and his partner would have to leave behind their jobs and their church community and would have to pull their U.S.-citizen son out of school. Plaintiff Doe #1 is afraid that his son's education would be jeopardized if his family had to leave their home in Elmore.

103. Since the adoption of HB 56, Plaintiff Doe #1, his partner, and his son have suffered continuing anxiety and fear.

104. Plaintiff Doe #2 wants to do what is required under Alabama Code Section 40-12-255, but he is unable to make the annual registration payment and obtain a current decal because of Defendants' policy of enforcing Section 30 of HB 56.

105. Plaintiff Doe #2 is afraid that he will be fined, imprisoned, or deported if he cannot make the annual registration payment and obtain a current identification decal for his manufactured home, where he lives with his partner, son, and five extended family members.

106. Plaintiff Doe #2 fears that because of Defendants' challenged acts, he and his family may have to abandon their home, without being able to sell it. Plaintiff Doe #2 does not know where he and his family could move if they can no longer live in their home in Millbrook. He is worried that he would not be able to find work to support his family, and he does not want to make his young U.S.-citizen son leave his school and his friends.

107. Plaintiff Doe #2 fears that his partner and son's well-being will suffer if Plaintiff Doe #2 is detained or deported, pursuant to Defendants' enforcement of Section 30 of HB 56.

108. Because they will not have current decals on the outside of their homes, Plaintiffs Doe #1 and Doe #2 will be involuntarily yet conspicuously in violation of their lawful obligations under Alabama Code Section 40-12-255. Being forced to be visibly out of compliance with the law will significantly heighten the exposure of Plaintiffs Doe #1 and Doe #2 and their families to law enforcement, who pursuant to the new authority conferred by Section 12 of HB 56 are obligated "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States," to make inquiries into that person's citizenship and immigration status. HB 56 § 12(a). Plaintiffs Doe #1 and Doe #2 thus face an increased risk of arrest and detention because of Defendants' enforcement of HB 56 Section 30.

B. Harm to Organizational Plaintiffs

109. Defendants' enforcement of HB 56 Section 30 has harmed and will continue to harm Plaintiffs CAFHC, FHCNA, and CFH.

110. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CAFHC's mission of promoting understanding of and enforcing fair housing laws. In order to counteract the effects of Defendants' acts by educating people about their rights, Plaintiff CAFHC staff members have had to spend time researching the enforcement policies adopted by different counties in Alabama, the criminal and fair housing implications of the law, and related state-law requirements applicable to manufactured homes. Plaintiff CAFHC personnel have also prepared for and presented at know-your-rights training sessions to speak about HB 56 Section 30 to people who live in manufactured home residents and drafted an educational flyer with information about HB 56 Section 30 and manufactured home decals.

111. The need for these counteraction activities that are in specific response to Defendants' enforcement of HB 56 Section 30 have prevented or delayed Plaintiff CAFHC from working on other projects that it would have completed, including finalizing an Analysis of Impediments, pursuant to a contract awarded by the City of Montgomery; pursuing a planned program to conduct testing for race and disability based housing discrimination in the middle region of Alabama; and participating in a mortgage lending training session.

112. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff FHCNA's mission of eliminating housing discrimination. In order to counteract the discriminatory and unlawful impact of Defendants' acts on the communities it serves, Plaintiff FHCNA will have to divert scarce resources away from regularly planned activities by, *inter alia*, realigning its testing program to target discrimination based on national origin against residents of manufactured home parks, readjusting its client intake counseling to provide information and assess the impacts of HB 56 Section 30 on manufactured home residents, and meeting with community and civil rights groups regarding the impacts that HB 56

Section 30 is having on residents of manufactured homes. In response to HB 56 Section 30 Plaintiff FHCNA has engaged and is engaging in communications with HUD to seek guidance on the fair housing implications of the law and is preparing know-your-rights materials.

113. Because Plaintiff FHCNA is devoting and will continue to devote its limited resources to the activities described in the preceding paragraph, it has been unable to engage in regularly planned programs including testing in fields that it had planned to investigate, such as sales and insurance, and engaging in normal outreach and client intake.

114. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CFH's mission, which is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants' rights, and lending practices. In order to counteract the discriminatory and harmful impact of HB 56 on the communities it serves, Plaintiff CFH has had to reach out to organizations that work with immigrant communities, and it has participated in meetings to discuss the applicability of HB 56 Section 30 to manufactured homes. Plaintiff CFH has spent time researching HB 56 Section 30 and its impact on manufactured home residents, and it has been in communication with HUD regarding problems associated with HB 56's housing restrictions. Plaintiff CFH has also applied to realign its funding from a focus on predatory lending to a focus on outreach and enforcement regarding national origin discrimination in order to respond to HB 56's discriminatory housing restrictions, including Section 30.

115. These counteraction activities have prevented and delayed Plaintiff CFH from working on other planned projects, such as conducting general rental testing and routine outreach activities and conducting education and outreach on other issues.

CLASS ALLEGATIONS

116. Plaintiffs Doe #1 and Doe #2 have filed this Complaint as a class action pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

117. Plaintiffs Doe #1 and Doe #2 request that this Court certify a Class of all similarly situated individuals. The proposed Class definition is: All individuals who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home in Alabama.

118. Plaintiffs Doe #1 and Doe #2 further request that the Court certify a Latino Subclass with the following definition: All Latinos who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home.

119. This action is properly maintained as a class action because:

(a) Joinder of all members of the Class and Latino Subclass is impracticable because of the size of the Class and Subclass.

(i) The Class comprises more than 40 households.

(ii) The Latino Subclass comprises more than 40 households.

(b) The claims alleged on behalf of the Class and Latino Subclass raise questions of law and fact that are common to the Class and Subclass.

(i) All Class members will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.

- (ii) The members of the Latino Subclass are of the same race and national origin. The enforcement of Section 30 of HB 56 is intentionally targeted at members of the Subclass because of their Latino race and national origin, and it will have a disproportionate adverse impact on members of the Subclass.
- (c) The claims of the Class representatives are typical of the Class and Subclass.
- (i) Like the members of the Class, Plaintiffs Doe #1 and Doe #2 will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.
 - (ii) Like the members of the Latino Subclass, Plaintiffs Doe #1 and Doe #2 are Latinos who will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution, due to the discriminatory intent and effect of Defendants' enforcement of Section 30 of HB 56, on grounds of Subclass members' Latino race and national origin.
- (d) The Class and Latino Subclass representatives and Class counsel will fairly and adequately represent the interests of the Class and Subclass. The Class and Latino Subclass representatives have no interests that are antagonistic to the interests of other Plaintiffs, and Class counsel have substantial experience in civil rights and class action litigation.

120. Class-wide declaratory and injunctive relief is appropriate for the Class because Defendants have acted or refuse to act on grounds generally applicable to the Class as a whole.

Defendants have applied and will apply the same policy, custom, and/or practice to all Class members.

121. Class-wide declaratory and injunctive relief is appropriate for the Latino Subclass because Defendants have acted or refuse to act on grounds generally applicable to the Subclass as a whole. Defendants have applied and will apply the same policy, custom, and/or practice to all Latino Subclass members.

122. There are questions of law or fact common to all of the members of the Class and Latino Subclass that predominate over any questions affecting only individuals and a class action is superior to other methods for a fair and efficient adjudication of the controversy. Common questions of law or fact predominate and the controversy is most fairly and efficiently adjudicated via class action because all Class and Latino Subclass members will be subject to the same fines, penalties, and threat of criminal prosecution for the same conduct.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

**For Injunctive and Declaratory Relief under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants**

On Behalf of All Named Plaintiffs and the Latino Subclass

123. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

124. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, maintains, or keeps a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

125. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make registration payments and apply for a manufactured home decal or a moving permit.

126. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits to Plaintiffs Doe #1, Doe #2 and the Latino Subclass will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Injunctive and Declaratory Relief Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of All Named Plaintiffs and the Latino Subclass

127. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

128. Section 40-12-255 of the Alabama Code requires anyone who owns, maintains, or keeps a manufactured home to obtain a decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

129. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make an annual registration fee payment or apply for a manufactured home decal or a moving permit.

130. Defendants' enforcement of Section 30 of HB 56 against Plaintiffs Doe #1, Doe #2, and the Latino Subclass by refusing to accept their annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing occupied by Latino Subclass members, because of their race and national origin, in violation of 42 U.S.C. § 3604(b).

THIRD CAUSE OF ACTION
For Injunctive and Declaratory Relief Under U.S. Const., Art. VI, cl. 2
Against All Defendants
On Behalf of All Named Plaintiffs and the Class

131. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 35-69, 79-92, 97-115, 117, 119-120, and 122 above.

132. The Supremacy Clause, Article VI, Section 2, of the U.S. Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

133. The Supremacy Clause mandates that federal law preempts state law in any area over which Congress expressly or impliedly has reserved exclusive authority or which is constitutionally reserved to the federal government, or where state law conflicts or interferes with federal law.

134. Section 30 of HB 56 makes it a crime for certain non-citizens, including Plaintiffs Doe #1, Doe #2, and members of the Class, to make an annual registration payment or apply for a manufactured home decal or moving permit.

135. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns or maintains a manufactured home to obtain a decal by or before November 30 of each year.

136. The inability to obtain a decal will make housing unavailable to Plaintiffs Doe #1, Doe #2, and members of the Class.

137. Section 30 of HB 56 regulates the terms and conditions under which non-U.S. citizens may remain in Alabama.

138. Section 30 is an impermissible state regulation of immigration, and therefore usurps powers constitutionally vested in the federal government exclusively.

139. Section 30 also conflicts with federal laws, regulations, and policies; attempts to legislate in a field occupied by the federal government; imposes burdens and penalties on legal residents not authorized by and contrary to federal law, and unilaterally imposes burdens on the federal government's resources and processes, each in violation of the Supremacy Clause.

140. Plaintiffs move for relief on this claim directly under the Constitution and also under 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION
For Injunctive and Declaratory Relief Under 42 U.S.C. § 1983 and
U.S. Const., Amend. XIV § 1, cl. 3
Against All Defendants
On Behalf of Plaintiff Doe #1, Plaintiff Doe #2, and the Class

141. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-54, 70-78, and 97-108, 117, 119-120, and 122 above.

142. Defendants' enforcement of Section 30 of HB 56 prohibits Plaintiffs Doe #1, Doe #2, and the Class from complying with the requirements under Alabama Code Section 40-12-255 to pay an annual registration fee and to obtain and prominently display a current manufactured home identification decal. Without a current identification decal, Plaintiffs Doe #1, Doe #2, and the Class will be subject to the penalties established in Alabama Code Section 40-12-255(a) and (k).

143. Defendants' enforcement of Section 30 of HB 56 will force Plaintiffs Doe #1, Doe #2, and the Class to abandon their housing and permanently forfeit their manufactured homes, because they cannot come into compliance with Alabama Code Section 40-12-255(a) or (j).

144. Under Section 27 of HB 56, the individual Plaintiffs and the Class will be unable to sell their homes before abandoning and forfeiting them.

145. Defendants' enforcement of HB 56 Section 30 against Plaintiffs Doe #1, Doe #2, and the Class has deprived and/or will deprive them of their property without substantive due process, in violation the Due Process Clause of the Fourteenth Amendment.

146. Defendants' enforcement of HB 56 Section 30 is pursuant to their official capacities as state actors under color of law and is therefore actionable under the Fourteenth Amendment through 42 U.S.C. § 1983.

FIFTH CAUSE OF ACTION
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants
On Behalf of All Named Plaintiffs

147. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

148. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

149. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

150. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

151. Defendants' violations of 42 U.S.C. § 3604(a) have caused and will continue to cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to compensatory damages under 42 U.S.C. § 3613(c).

SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of the Named Plaintiffs

152. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

153. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

154. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1 and Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

155. Defendants' enforcement of Section 30 of HB 56 by refusing to accept annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing on the basis of race and national origin, in violation of 42 U.S.C. § 3604(b).

156. Defendants' violations of 42 U.S.C. § 3604(b) have caused and will cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to damages under 42 U.S.C. § 3613(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

(1) Issue a temporary restraining order and preliminary injunction immediately enjoining the enforcement of HB 56 Section 30 statewide against Plaintiffs and the Class and Latino Subclass;

(2) Order Defendant Magee to immediately notify all county officials who are responsible for enforcing the manufactured home registration requirements of Section 40-12-255 of the Alabama Code if said temporary restraining order and preliminary injunction is entered;

(3) Certify the Class and Subclass;

(4) Enter a declaratory judgment finding that Defendants' enforcement of HB 56 Section 30 violates the Fair Housing Act, 42 U.S.C. § 3604(a) and (b); the Supremacy Clause of Article VI of the U.S. Constitution; the Due Process Clause of Amendment XIV of the U.S. Constitution; and 42 U.S.C. § 1983.

(5) Enter a permanent injunction enjoining Defendants from enforcing Section 30 of HB 56;

(6) Award compensatory damages to Plaintiffs Doe #1, Doe #2, CAFHC, FHCNA, and CFH for their claims for damages under 42 U.S.C. § 3604(a) and (b);

(7) Award Plaintiffs their reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988 and 3613(c)(2); and

(8) Order such other relief as this Court deems just and equitable.

Dated: November 18, 2011

Respectfully submitted,

s/ Mary Bauer

Mary Bauer

On Behalf of Counsel for Plaintiffs

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* *Pro hac vice* admission to be sought

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

CENTRAL ALABAMA FAIR HOUSING
CENTER;

FAIR HOUSING CENTER OF NORTHERN
ALABAMA;

CENTER FOR FAIR HOUSING, INC.; and

JOHN DOE #1 and JOHN DOE #2, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

JULIE MAGEE, in her official capacity as
Alabama Revenue Commissioner, and

WILLIAM HARPER, in his official capacity
as Elmore County Revenue Commissioner,

Defendants.

Civil Action File No.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF
AND FOR DAMAGES**

CLASS ACTION

NATURE OF THE ACTION

1. This is a civil rights action for declaratory and injunctive relief brought by Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, Center for Fair Housing, Inc., John Doe #1, and John Doe #2 for violations of the federal Fair Housing Act, 42 U.S.C. § 3601 et seq., and the Supremacy Clause and Due Process Clause of the U.S. Constitution.

2. Plaintiff John Doe #1 is an undocumented immigrant from Mexico. He owns and resides in a manufactured home in Elmore County, Alabama, along with his partner, five-year-old U.S.-citizen son, and sixteen-year-old nephew.

3. Plaintiff John Doe #2 is an undocumented immigrant from Mexico. Like Plaintiff Doe #1, Plaintiff Doe #2 owns and resides in a manufactured home in Elmore County, along with his partner, his five-year-old U.S.-citizen son, and his partner's parents and three brothers.

4. This action is brought against Defendant Julie Magee in her official capacity as Alabama Revenue Commissioner and Defendant William Harper in his official capacity as the Revenue Commissioner of Elmore County, Alabama.

5. Section 30 of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Laws 535 (commonly referred to as "HB 56"), forbids "[a]n alien not lawfully present in the United States" from entering into or attempting to enter into "any transaction . . . [with] the state or a political subdivision of the state," with the sole exception of obtaining a marriage license.¹ It further forbids any person from entering into or attempting to enter into such a transaction on behalf of an "alien not lawfully present in the United States." An individual found in violation of Section 30 can be convicted of a Class C felony and subjected to up to ten years' imprisonment.

6. Section 40-12-255 of the Alabama Code requires that all individuals who own, maintain, or keep a manufactured home in Alabama engage in a "transaction" with the State, within the meaning of Section 30 of HB 56. Specifically, by no later than November 30 of each calendar year, any such person must pay an annual registration fee and display a current identification decal in a conspicuous location on the outside of her manufactured home. Section 40-12-255 imposes progressive fines and penalties for non-compliance, including imprisonment.

¹ A copy of the enrolled Bill is attached as Attachment 1. HB 56 has not been codified yet but is unofficially reported in electronic databases at Ala. Code § 31-13-1 *et seq.* (West 2011) and Ala. Code § 31-9C-1 *et seq.* (Michie/LexisNexis 2011).

7. Defendants Magee and Harper have adopted and implemented a policy, pursuant to the requirements of Section 30 of HB 56, to reject annual manufactured home registration payments from, and thus deny identification decals to, individuals who are unable to demonstrate U.S. citizenship or lawful immigration status. In other words, Defendants' policy treats the act of complying with Alabama Code § 40-12-255 as a "business transaction" under HB 56 Section 30.

8. Until the passage and implementation of Section 30 of HB 56, Plaintiffs Doe #1 and Doe #2 were allowed to register their manufactured homes pursuant to Alabama Code Section 40-12-255.

9. Defendants' policy for enforcing HB 56 Section 30 makes it impossible for Plaintiffs Doe #1 and Doe #2 to make the annual registration payment and obtain current identification decals for their manufactured homes, as they are required to do under Alabama Code Section 40-12-255 by no later than November 30, 2011. If Plaintiffs Doe #1 and Doe #2 attempt to pay their annual registration fees in order to obtain current identification decals, they could face Class C felony charges for attempting to enter into a transaction with the State, in violation of HB 56 Section 30. But if Plaintiffs Doe #1 and Doe #2 do not pay the annual registration fee and do not display a current identification decal by November 30, 2011, they will face fines, penalties, and Class C misdemeanor charges for violating the Manufactured Homes statute, Alabama Code Sec. 40-12-255.

10. Defendants' policy of enforcing HB 56 Section 30 further makes it impossible for Plaintiffs Doe #1 and Doe #2 to move their manufactured homes on public roads in Alabama. Under subsection (j) of the Manufactured Homes Statute, a permit is required to make such a move, yet any effort to obtain a moving permit would also constitute a "business transaction"

within the meaning of Section 30 of HB 56. Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor under Alabama Code Section 40-12-255(j)(4).

11. Section 27 of HB 56 makes unenforceable in Alabama courts virtually any contract that takes more than 24 hours to complete and is entered into where the parties know or should have known that one of them is a non-U.S. citizen who lacks proof of lawful immigration status.

12. In the event of eviction from the manufactured home parks where they currently reside, Plaintiffs Doe #1 and Doe #2 may therefore be forced to abandon their homes because under HB 56 they cannot lawfully move them, and any sale contract may be unenforceable.

13. Plaintiffs Doe #1 and Doe #2 bring this case on behalf of themselves and a Class of similarly situated residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

14. Plaintiffs Doe #1 and Doe #2 also bring this case on behalf of themselves and a Subclass of similarly situated Latino residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

15. Defendants' policy of enforcing Section 30 so as to refuse annual registration payments from and to deny manufactured home identification decals to individuals who cannot demonstrate U.S. citizenship or lawful immigration status will cause immediate and irreparable harm to Plaintiffs Doe #1 and Doe #2 and their families, as well as to similarly situated individuals who own, maintain, or keep manufactured homes in Alabama.

16. Defendants' policy of enforcing Section 30 so as to refuse to accept annual registration payments from, and to deny manufactured home identification decals to, members of

the Class and Subclass has injured and will continue to injure organizational Plaintiffs Central Alabama Fair Housing Action Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc. These Plaintiffs have already diverted and will be forced to continue to divert scarce resources away from their core activities in order to conduct education, outreach, and advocacy on behalf of communities throughout Alabama concerning the impact of HB 56 Section 30 on immigrants who live in manufactured homes and who face fines, penalties, and the threat of criminal prosecution if they cannot pay their annual registration fees and receive the required identification decals.

17. Defendants' policy pursuant to HB 56 of refusing annual registration payments from and denying current identification decals to individuals who live in manufactured homes and who cannot show proof of U.S. citizenship or lawful immigration status violates the Fair Housing Act, the Supremacy Clause of the U.S. Constitution, and the Due Process Clause of the U.S. Constitution.

JURISDICTION AND VENUE

18. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(a)(4), 2201, 2202, and 42 U.S.C. § 3613(a)(1)(A).

19. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 81 and 1391(b). Defendant Magee and Defendant Harper reside in this State; Defendant Harper is employed in this District and Division as a County official; and Defendant Magee is employed in this District and Division as a State official. A substantial part of the events and omissions giving rise to Plaintiffs' claims have occurred and/or will occur in this District and Division.

PARTIES

Organizational Plaintiffs

20. The three organizational Plaintiffs collectively provide fair housing services in nearly every county within Alabama. Their core activities include advocating for equal housing opportunities, assisting victims of housing discrimination, and enforcing compliance with the federal Fair Housing Act and related fair housing laws.

21. **Plaintiff Central Alabama Fair Housing Center** (“CAFHC”) is an Alabama non-profit corporation, with its principal place of business in Montgomery, Alabama. Founded in 1995, CAFHC’s mission is to promote understanding of the Fair Housing Act and to enforce the Fair Housing Act. It advances that mission through educational activities including speaking to community groups and individuals most likely to experience housing discrimination, training housing providers in fair housing issues, and conducting intake and investigations.

22. Plaintiff CAFHC provides fair housing services in the following Alabama Counties: Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Greene, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Sumter, Tallapoosa, and Wilcox.

23. **Plaintiff Fair Housing Center of Northern Alabama** (“FHCNA”) is an Alabama non-profit corporation, with its principal place of business in Birmingham, Alabama. Plaintiff FHCNA was founded in 1993. Its mission is the elimination and eradication of housing discrimination through education and enforcement activities. FHCNA seeks to ensure that all individuals who seek housing are given fair and equal access to housing of their choice. In furtherance of this mission, Plaintiff FHCNA hosts public seminars for housing providers and

community members, engages in outreach activities, undertakes investigations, and files administrative complaints. Plaintiff FHCNA provides fair housing services in the following Alabama Counties: Blount, Calhoun, Cherokee, Colbert, Cullman, DeKalb, Etowah, Fayette, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker, and Winston.

24. **Plaintiff Center for Fair Housing, Inc.** (“CFH”) is an Alabama non-profit corporation, founded in 1998, with its principal place of business in Mobile, Alabama. CFH’s mission is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants’ rights, and fair lending practices, in order to promote healthier and more inclusive communities. Plaintiff CFH provides these fair housing services in the following Alabama Counties: Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

Individual Plaintiffs

25. **Plaintiff John Doe #1** resides in Elmore County in a manufactured home that he owns. He lives with his partner and five-year-old son, who is a U.S. citizen. Plaintiff Doe #1 is originally from Mexico and came to the United States approximately eight years ago. He rents a lot for his manufactured home in Elmore, Alabama.

26. **Plaintiff John Doe #2** resides in Elmore County in a manufactured home that he owns. Plaintiff Doe #2 came to the United States from Mexico in 2002. He rents a lot for his manufactured home in Millbrook, Alabama, where he lives with his partner, their five-year-old son, and his partner’s parents and three brothers. Plaintiff Doe #2’s son is a U.S. citizen.

Defendants

27. **Defendant Julie Magee** is the Revenue Commissioner for the State of Alabama. As the head of the Alabama Department of Revenue, she is charged with carrying out the duties of the Department, which by Alabama law include “general and complete supervision and control of,” *inter alia*, “the collection of all property, privilege, license, excise, intangible, franchise, or other taxes for the state and counties.” Ala. Code § 40-2-11(1). Defendant Magee is responsible for supervising and directing the work of all state and county officials who are charged with the assessment and collection of taxes, including the manufactured home registration fee at issue in this case. She is sued in her official capacity.

28. **Defendant William Harper** is the Revenue Commissioner for Elmore County, Alabama. He is responsible for collecting payments and issuing manufactured home registration decals to manufactured home owners who reside in Elmore County. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. Alabama’s Manufactured Homes Statute

29. In Alabama, a “manufactured home” is subject to the requirements of Section 40-12-255 of the Alabama Code. Section 40-12-255(a) requires that any “person, firm, or corporation who owns, maintains, or keeps . . . a manufactured home” pay an annual registration fee and an issuance fee in order to obtain a current identification decal. The identification decal, which is designed and issued by the Alabama Department of Revenue, is color-coded to indicate the year in which it was issued and must be displayed on the outside of the manufactured home at eye level, so as to be “clearly visible from the street.” *Id.*

30. Under Alabama law, the County official with responsibility for collecting taxes and other assessments has the duty to collect the annual manufactured home registration fees, to issue identification decals, and to impose fines and penalties for late payments. In Elmore County, Defendant Harper is the County official who is assigned these responsibilities.

31. The registration fee and issuance fee are due on October 1 of each year and are considered delinquent if not paid by November 30 of each year. An individual who fails to pay the registration fee and issuance fee by November 30 will be fined a \$10 delinquent fee and a \$15 citation fee. An additional penalty is imposed if the delinquent fee and citation fee are not paid within 15 days of the first citation. Ala. Code § 40-12-255(b). An individual cannot obtain a current identification decal for his or her manufactured home until all outstanding fees and penalties have been satisfied.

32. In addition to the fines and penalties identified above in Paragraph 31, an individual who violates any provision of Section 40-12-255 is guilty of a Class C misdemeanor. Ala. Code § 40-12-255(l). Under Alabama law, a Class C misdemeanor is punishable with a three-month jail term, in addition to a fine of at least \$50 and up to \$500. *Id.*; §§ 13A-5-7 and 13A-5-12.

33. In order to obtain a permit to move a manufactured home on public roads in Alabama, a manufactured home owner must obtain a permit from the County official who administers the manufactured home registration laws in the County where the manufactured home is currently being kept. Proof of payment of the current registration fee, as well as any outstanding fines and penalties, is required to obtain a moving permit. Ala. Code § 40-12-255(j)(1). Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor. § 40-12-255(j)(4).

34. Any state, county or municipal law-enforcement officer, or license inspector is authorized to issue citations for violations of Alabama Code Section 40-12-255, pursuant to Section 40-12-257.

B. Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535

35. On June 2, 2011, the Alabama legislature adopted the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535, a comprehensive state immigration scheme that extensively regulates immigration, immigrants, and those who associate or interact with immigrants. This law is commonly referred to as HB 56.

1. Text of Section 30 of HB 56

36. Section 30 of HB 56 became effective on September 28, 2011.

37. Section 30 of HB 56 defines and utilizes a new legal term, a “business transaction.” HB 56 § 30(a). The term “business transaction” is defined as “*any* transaction between a person and the state or a political subdivision of the state,” with the only exception being for marriage licenses. *Id.* (emphasis added).

38. The term “business transaction” is vaguely defined in exceptionally broad and misleading terms. As defined by statute, it is not limited to transactions involving “business.”

39. The term “business transaction” is broad enough to include numerous transactions with state and local officials that relate to housing, the ability to rent or buy housing, and the provision of services and facilities in connection with housing, therefore implicating compliance with the federal Fair Housing Act and other civil rights laws.

40. Section 30 of HB 56 makes it a Class C felony—punishable by up to ten years’ imprisonment, *see* Ala. Code § 13A-5-6—for an “unlawfully present alien” to enter or attempt to

enter into virtually any transaction with the state or local government agency. HB 56 § 30(b), (d).

41. Section 30 of HB 56 also prohibits a third party from entering or attempting to enter into virtually any transaction with the State or a political subdivision on behalf of an alien not lawfully present in the United States, again at penalty of a Class C felony conviction. *Id.*

42. Section 30 of HB 56 provides that any person entering or attempting to enter into a transaction with the State or a political subdivision of the state shall be required to demonstrate to the person conducting the transaction on behalf of the state/political subdivision that the applicant is a U.S. citizen, or, if he or she is an alien, that he or she has lawful presence in the United States. HB 56 § 30(c).

43. Section 30 of HB 56 further provides that U.S. citizenship must be proven by producing one of an enumerated list of documents. *Id.*; *see also* HB 56 § 29(k). If a person does not possess one of the enumerated documents but is in fact a U.S. Citizen, that person cannot satisfy the proof requirements of Section 30.

44. Section 30 of HB 56 further provides that an alien's lawful presence shall be demonstrated solely by the state or political subdivision's verification of the alien's lawful presence through the Systematic Alien Verification for Entitlements ("SAVE") program operated by the federal Department of Homeland Security ("DHS"), or by other verification with DHS pursuant to 8 U.S.C. § 1373(c). *Id.*

45. SAVE is an inter-governmental initiative designed to aid public benefit-granting agencies in determining an applicant's immigration status, and thereby ensure that only entitled applicants receive federal, state, or local public benefits and licenses.

46. Section 1373(c) of Title 8 of the U.S. Code requires the federal immigration agency to respond to certain immigration status inquiries by state and local agencies. After passage of Section 1373(c), the Immigration and Naturalization Service (now Department of Homeland Security) created the Law Enforcement Support Center to respond to requests for state and local law enforcement officers. There is, however, no system under § 1373(c) to verify citizenship or immigration status for individuals attempting to renew registration of manufactured homes or relating to any housing issues.

47. Neither the federal SAVE system, nor any federal system for status inquiries under § 1373(c), has been authorized by the federal government to verify immigration status in order to disqualify individuals from paying registration fees for manufactured homes or for any related purpose.

48. Moreover, federal determinations made under the SAVE system or any other system set up by § 1373(c), are merely snapshots of an individuals' status at some point prior to the status check and do not provide reliable or accurate immigration status determinations.

49. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner is not enrolled in, and cannot currently utilize, the SAVE program to determine whether manufactured home owners or renters are U.S. citizens or have lawful immigration status.

50. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner are not authorized to use, and cannot currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

51. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees has received approval to use SAVE to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

52. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees can currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

53. As a result, state and local officials are making their own determinations about the applicants' U.S. citizenship or lawful immigration status before allowing them to renew manufactured home registration and are implementing Section 30 in a manner expressly at odds with HB 56.

54. HB 56 does not establish any process by which an individual can challenge a determination by a state or local official that he or she is not "authorized" to be in the United States.

2. History and Intent of Section 30 of HB 56

55. The legislative history of Section 30 of HB 56 reveals a plain legislative intent to drive those suspected of being undocumented immigrants, and in particular minority immigrants of Latino heritage, out of Alabama by making living conditions miserable for them or by funneling them into deportation proceedings.

56. Representative Hammon, who introduced the bill in the House, explained: "This [bill] attacks *every aspect* of an illegal immigrant's life. They will not stay in Alabama [T]his bill is designed to make it difficult for them to live here so they will deport themselves." He also noted, "[W]e do want to affect every aspect of someone's life and make it a little more difficult for them to live here." In no uncertain terms, Representative Hammon stated: "[T]he

intent of this bill is to slow illegal immigration in Alabama through attrition.” He emphasized: “We are going to deter illegal immigrants from the State of Alabama.”

57. Senator Beason, who introduced a similar omnibus immigration bill in the Senate, and who ultimately consolidated his bill with Hammon’s to form HB 56, also expressed his views that the intent of HB 56 was to drive immigrants from the state. In a speech he delivered in February 2011, just before the legislative session commenced, he noted, “The reality is that if you allow illegal immigration to continue in your area you will destroy yourself eventually If you don’t believe illegal immigration will destroy a community go and check out parts of Alabama around Arab and Albertville.”

58. Section 30 of HB 56 is designed to achieve these goals by making it impossible for undocumented immigrants who reside in manufactured homes to continue living in this State.

59. The entirety of HB 56, including Section 30, is specifically targeted at making Latinos leave Alabama. The State officials who enacted and are implementing Section 30 of HB 56 knew that Section 30, and HB 56 in its entirety, would have the greatest impact on Latino immigrants. Latinos make up a majority of the State’s foreign-born population. And although only a small percentage of Latino immigrants in Alabama are undocumented, a majority of Alabama’s undocumented population is Latino.

60. Representative Rich, who voted for the bill, remarked that although he “like[s] Hispanic people,” “95 percent of the children that are in the elementary school at Crosswell Elementary School are Hispanic, 95 percent of them. 52 percent of the children that attend Albertville Elementary and Primary School are Hispanic, and the biggest part of them are illegal.” Representative Rich did not identify a source of information or any other factual basis for his allegation that “the biggest part of” the school children discussed were undocumented.

61. Contrary to Representative Rich’s assertion, in Alabama approximately 85% of all children whose parents are not lawfully present in the United States are U.S. citizens.

62. Representative Hammon has also conflated Latinos with undocumented immigrants. For example, on June 2, 2011, the date that the House of Representatives passed the final version of HB 56, Representative Hammon explained the need for the bill by claiming that “the illegal immigration population in Alabama is the second fastest growing in the country and the people in our state need jobs back.” When asked for evidence to substantiate this claim, he pointed to a news article that observed that the State’s *Latino* population had grown by 145% from 2000 to 2010, the second highest percentage of growth in the country for that ten-year period. The article did not, however, discuss any data or studies of undocumented immigrant populations. It was limited to a discussion of Alabama’s Latino population.

63. Similarly, Senator Beason singled out Arab and Albertville, both of which are in Marshall County, as examples of communities that have allegedly been destroyed by the presence of undocumented persons. Senator Beason’s comments were in no uncertain terms directed at Latino immigrants. Compared to the rest of the State, Marshall County has a large Latino population: 12% of Marshall County residents are Latino, compared to less than 4% of the State population. Moreover, Marshall County has no other significant immigrant population.

64. Those who opposed the legislation likewise understood that it took aim at Mexicans and other Latinos. Senator Singleton observed: “[T]he fact of the matter is that we know that when we talk about illegal immigration that it is basically targeted at one ethnic group and that seems to be the Latino Hispanic Americans” Senator Holmes stated: “The purpose of this bill is . . . these Mexicans [Y]ou all are trying to get as many in here out and trying to stop as many coming in [as you can]” Representative Jackson warned that the effects of HB

56 would reach even further than targeting Latinos: “It just doesn’t stop at the people coming from Mexico. This is not here just for them. This thing is going to have great repercussion for all minorities.”

65. At times supporters of HB 56 have spoken in violent terms about their desire to eradicate immigrants in Alabama. For example, at a town hall meeting this summer after HB 56 passed, Alabama Congressman Mo Brooks stated, in reference to his desire to force undocumented immigrants out of Alabama, that “[a]s your congressman on the house floor, I will do anything short of shooting them.”

66. In enacting HB 56 generally, and Section 30 specifically, Alabama legislated in an area committed exclusively to the federal government under the U.S. Constitution. Indeed, by passing HB 56, Alabama has intruded into an area of exclusive federal control and has sought to supplant the federal government in key respects.

67. Contrary to long-settled law that establishes the federal government’s exclusive role in regulating immigration, Section 30 of HB 56 reflects the view that the State of Alabama should regulate immigration on its own. Alabama has sought to use its self-granted power to attempt to drive people who are perceived to be undocumented out of the State through the denial of housing and housing-related local services. As Representative Hammon stated during legislative debates, “[I]t is the State’s responsibility to handle this issue and not the federal government.” He explained, “[T]his issue is now the responsibility of the State of Alabama and not the federal government.” He explained, in reference to federal immigration law and policy, that “[w]e are not going to depend on a broken system Here in Alabama we are not going to ignore the problem.”

68. HB 56 allows the State of Alabama to take control of immigration enforcement which Alabama has sought to justify by arguing that the federal government has failed to act to the State’s satisfaction. Representative Hammon remarked when he introduced the bill, “[I]t appears that the federal government has defaulted on their responsibility of enforcing federal immigration law. And they have forfeited that right to the States.” Senator Beason concurred with this sentiment, noting in the Senate debates that “[i]f the federal government would enforce their laws that they have on the books, the states would not be required to begin to do things to help enforce those laws.”

69. Representative Hammon, one of the two sponsors of HB 56, has publicly applauded efforts by local officials to deny essential housing-related services to individuals like Plaintiff Doe #1 and Plaintiff Doe #2, precisely because these acts will have the effect of driving Plaintiffs and other similarly situated people out of Alabama. As Representative Hammon explained this October when he was asked his views on new policies by certain public utilities to deny services to undocumented individuals under Section 30:

Our goal [through Section 30] was to prevent any business transactions with any governments. It’s just an extension of the goal of the entire bill—to prevent illegal immigrants from coming to Alabama and *to discourage those that are here from putting down roots. . . . It seems to be working. . . . We’re seeing a lot of illegal immigrants self-deport.*

C. Complying with Alabama’s Manufactured Homes Statute Constitutes a “Business Transaction” with the State, Which Is Forbidden to Undocumented Immigrants Under HB 56 Section 30.

70. The process of submitting a payment for the annual manufactured home registration fee and obtaining a current identification decal, as required by Alabama Code Section 40-12-255(a), is a “business transaction with the State” subject to HB 56 Section 30(a).

71. Applying for a moving permit pursuant to Alabama Code Section 40-12-255(j) is also a “business transaction with the State” subject to HB 56 Section 30(a).

72. Thus, the enforcement of HB 56 Section 30 will harm individuals who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status. Such individuals will be denied the rights to make an annual manufactured home registration payment, obtain a current identification decal, and apply for a moving permit.

73. Without a current registration payment and identification decal, any individual who owns, maintains, or keeps a manufactured home in Alabama will be subject to serious repercussions, including fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code § 40-12-255(a), (l); §§ 13A-5-7 and 13A-5-12.

74. Without a moving permit, an individual who attempts to transport a manufactured home on public roads in Alabama is subject to fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code §§ 40-12-255(j)(1) and (4); §§ 13A-5-7 and 13A-5-12.

75. In addition, an individual without documentation of U.S. citizenship or lawful immigration status who attempts to submit an annual manufactured home registration payment, obtain a current identification decal, or apply for a moving permit may be charged with a Class C felony and imprisoned for up to ten years under HB 56. HB 56 § 30(b), (d); Ala. Code § 13A-5-6.

76. An individual who attempts to submit a registration payment, obtain a current identification decal, or apply for a moving permit on behalf of an undocumented immigrant will likewise be charged with a Class C felony and can be sentenced to a ten-year prison term. *Id.*

77. Defendant Harper, in his capacity as the Revenue Commissioner of Elmore County, has announced a policy pursuant to HB 56 Section 30 of requiring proof of U.S. citizenship or lawful immigration status in order for an individual to make an annual manufactured home registration payment and obtain a current identification decal. Defendant Harper's policy makes it impossible for Plaintiffs Doe #1 and Doe #2 to comply with Alabama Code Section 40-12-255 because they are not allowed to submit their annual registration payments or obtain a current identification decal.

78. Section 30 of HB 56 applies statewide. Thus the same policy described in the preceding paragraph will be and is already being faced by every member of the Class and Subclass, regardless of which county they live in. In each of these counties, Defendant Magee is responsible for supervising and directing the work of the county revenue commissioners from whom Class and Subclass members must obtain identification decals for their manufactured homes.

D. Section 30 of HB 56 Is Federally Preempted.

79. The federal government has exclusive power over immigration matters. The U.S. Constitution grants the federal government the power to "establish a uniform Rule of Naturalization," U.S. Const. art. I § 8, cl. 4, and to "regulate Commerce with foreign Nations," U.S. Const. art. I § 8, cl. 3. In addition, the Supreme Court has held that the federal government's power to control immigration is inherent in the nation's sovereignty.

80. Congress has created a comprehensive system of federal laws, agencies, and procedures regulating immigration. *See generally* Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

81. The extensive statutory scheme created by the INA leaves no room for supplemental state immigration laws. A state law that regulates the terms and conditions under which non-citizens may remain in the State are preempted as an impermissible regulation of immigration.

82. State laws, like Section 30, that encroach on areas where Congress has indicated an intent to occupy the field—such as the regulation of the residence of non-citizens—are preempted. As are state laws that conflict with federal immigration law.

83. Section 30 of HB 56 dramatically alters the conditions under which non-citizens may remain in Alabama. By specifically requiring all non-citizens to prove that they have lawful status in order to obtain a manufactured home decal, this Section fundamentally affects the terms and conditions under which non-citizens may remain in a dwelling in the State.

84. Furthermore, certain categories of non-citizens, like Plaintiffs Doe #1 and Doe #2 and the members of the Class and Subclass, are unable to continue to live in their homes under this regime without threat of fines, penalties, or criminal prosecution. As such, Section 30 fundamentally alters the rights of residence of the members of the Class and Subclass and the individual Plaintiffs.

85. As Section 30 is currently being implemented to deny decals to manufactured home owners in the State, local officials are being required to make independent determinations of immigration status—a complex task for which they are not equipped, trained, or authorized to undertake. This is because in determining whether an individual attempting to renew their manufactured home registration is a U.S. citizen or lawful immigrant, state and local officials do not have access to federal databases on immigration and citizenship status. Instead, these state

and local officials are scrutinizing documents and making their own conclusions about individuals' citizenship and immigration status—determinations they are not trained to make.

86. Under the INA, a non-citizen's immigration status may be fluid and subject to change over time. A non-citizen who enters the United States with authorization, with a student visa for example, may remain in the country past his period of authorized stay and thus no longer be in status. Alternatively, he may overstay his original visa yet remain in status; for example, if he is eligible to and does change into a different visa classification. Conversely, a non-citizen who enters the United States without authorization, for example by crossing into the country by foot while evading border authorities, may subsequently gain lawful status, such as through a successful asylum application or grant of Temporary Protected Status.

87. The fluidity of immigration status is a fundamental feature of federal immigration law. It is a direct and unavoidable consequence of the system of immigration regulation that Congress has prescribed. This feature, moreover, accommodates many important national interests including, for example, the nation's humanitarian and international law obligations regarding asylum seekers and people fleeing torture.

88. Section 30 of HB 56 presumes that immigration status is definite, not subject to nuance, and readily and quickly ascertained. But those presumptions are not accurate.

89. Moreover, whether a person is a citizen of the United States is not always easily ascertained in the contexts demanded by Section 30 of HB 56. U.S. citizens are not required to carry documentary proof of their citizenship. Section 30 requires utilization of a list of documents, *see* HB 56 §§ 30(c), 29(k), but there is no guarantee that every U.S. citizen will possess one of these documents.

90. Furthermore, there is no national database that contains information about every U.S. citizen. Some people are actually unaware of their U.S. citizenship because they may have acquired U.S. citizenship at birth by operation of law due to their parents' citizenship, despite not having been born in the United States. *See, e.g.*, 8 U.S.C. § 1431. Others automatically obtain citizenship when their parents become naturalized U.S. citizens. *See, e.g.*, 8 U.S.C. § 1433.

91. The federal government has a core, constitutionally protected interest in setting a uniform federal immigration scheme, and in conducting foreign relations with other nations. State immigration laws interfere with these core interests.

92. Because the United States' immigration policy is inextricably intertwined with foreign relations, Alabama's attempt to regulate immigration through Section 30 of HB 56 will adversely impact the United States' ability to conduct foreign relations with other countries. HB 56 will undermine the ability of the U.S. government to speak with a single voice about immigration, including communicating to foreign nations as to what their nationals can expect when they come to visit or reside in the United States. State attempts to interfere with these inherently federal issues can have severe impacts on foreign relations.

E. Defendants' Enforcement of Section 30 of HB 56 Has a Disproportionate Adverse Impact on Alabama Latinos.

93. Defendants' enforcement of Section 30 of HB 56 as alleged above in Paragraphs 70-78 has a disproportionate adverse impact on Latinos in the State.

94. In Alabama, Latinos are significantly more likely than any other group to live in manufactured homes. Nearly a third (27.6%) of all Latinos living in Alabama reside in the U.S. census housing category "Mobile home, boat, RV, van, etc.," compared to 14.3% of non-Latino

Caucasians, 10.2% of non-Latino African Americans, and 3.2% of Asians. Considering the population of Alabama as a whole, only 13.5% of the population lives in mobile homes.²

95. Latinos are overrepresented among Alabama's foreign-born, non-U.S. citizen population. Latinos make up almost 45% of Alabama's foreign-born, non-naturalized population, whereas the total population of Alabama is less than 4% Latino. Approximately 65% of Alabama's non-U.S. citizen population is Latino.

96. Of Alabama's undocumented immigrant population, a large majority are Latino. Nationwide, approximately 77% of all undocumented immigrants are Latino.

INJURIES TO THE NAMED PLAINTIFFS

A. Harm to Individual Named Plaintiffs

97. Plaintiff Doe #1 and Plaintiff Doe #2 own and live in manufactured homes located in Elmore County, Alabama.

98. Because of Defendant Harper's policy, Plaintiff Doe #1 and Plaintiff Doe #2 face an impossible quandary. If they attempt to submit the annual registration payment and to obtain a current identification decal as required by Alabama Code Section 40-12-255(a), and/or to obtain a moving permit in order to move their manufactured homes out of Alabama by traveling on public roads, they will be subject to the harsh penalties established in HB 56 Section 30(d), and they will be denied the decal or permit for which they would be applying. If Plaintiff Doe #1 and Plaintiff Doe #2 fail to obtain a current identification decal and/or attempt to move their manufactured homes out of Alabama by traveling on public roads without a moving permit, they will be subject to similarly draconian penalties established in Alabama Code Section 40-12-255(a), (j), and (l).

² Under Alabama law a mobile home is a "manufactured home" subject to Alabama Code Section 40-12-255.

99. If subjected to the enforcement of HB 56 Section 30, Plaintiff Doe #1 and Plaintiff Doe #2 could be forced to abandon their housing and permanently forfeit their manufactured homes, because there will be no way for them to come into compliance with Alabama Code Section 40-12-255(a). Under Section 27 of HB 56, these Plaintiffs will not be able to sell their homes if they are forced to leave the manufactured home parks where they now live with their families.

100. Plaintiff Doe #1 wants to comply with Alabama Code Section 40-12-255 but knows he cannot do so if Defendants continue their policy of enforcing HB 56 Section 30.

101. Plaintiff Doe #1 fears that if he is unable to obtain a current identification decal, he and his partner and their U.S.-citizen son will have to abandon their home in order to avoid the fines, penalties, and criminal charges that are authorized under Alabama Code Section 40-12-255 for failure to display a valid identification decal.

102. Plaintiff Doe #1 does not know where else he could find housing if he had to give up his current home. He and his partner would have to leave behind their jobs and their church community and would have to pull their U.S.-citizen son out of school. Plaintiff Doe #1 is afraid that his son's education would be jeopardized if his family had to leave their home in Elmore.

103. Since the adoption of HB 56, Plaintiff Doe #1, his partner, and his son have suffered continuing anxiety and fear.

104. Plaintiff Doe #2 wants to do what is required under Alabama Code Section 40-12-255, but he is unable to make the annual registration payment and obtain a current decal because of Defendants' policy of enforcing Section 30 of HB 56.

105. Plaintiff Doe #2 is afraid that he will be fined, imprisoned, or deported if he cannot make the annual registration payment and obtain a current identification decal for his manufactured home, where he lives with his partner, son, and five extended family members.

106. Plaintiff Doe #2 fears that because of Defendants' challenged acts, he and his family may have to abandon their home, without being able to sell it. Plaintiff Doe #2 does not know where he and his family could move if they can no longer live in their home in Millbrook. He is worried that he would not be able to find work to support his family, and he does not want to make his young U.S.-citizen son leave his school and his friends.

107. Plaintiff Doe #2 fears that his partner and son's well-being will suffer if Plaintiff Doe #2 is detained or deported, pursuant to Defendants' enforcement of Section 30 of HB 56.

108. Because they will not have current decals on the outside of their homes, Plaintiffs Doe #1 and Doe #2 will be involuntarily yet conspicuously in violation of their lawful obligations under Alabama Code Section 40-12-255. Being forced to be visibly out of compliance with the law will significantly heighten the exposure of Plaintiffs Doe #1 and Doe #2 and their families to law enforcement, who pursuant to the new authority conferred by Section 12 of HB 56 are obligated "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States," to make inquiries into that person's citizenship and immigration status. HB 56 § 12(a). Plaintiffs Doe #1 and Doe #2 thus face an increased risk of arrest and detention because of Defendants' enforcement of HB 56 Section 30.

B. Harm to Organizational Plaintiffs

109. Defendants' enforcement of HB 56 Section 30 has harmed and will continue to harm Plaintiffs CAFHC, FHCNA, and CFH.

110. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CAFHC's mission of promoting understanding of and enforcing fair housing laws. In order to counteract the effects of Defendants' acts by educating people about their rights, Plaintiff CAFHC staff members have had to spend time researching the enforcement policies adopted by different counties in Alabama, the criminal and fair housing implications of the law, and related state-law requirements applicable to manufactured homes. Plaintiff CAFHC personnel have also prepared for and presented at know-your-rights training sessions to speak about HB 56 Section 30 to people who live in manufactured home residents and drafted an educational flyer with information about HB 56 Section 30 and manufactured home decals.

111. The need for these counteraction activities that are in specific response to Defendants' enforcement of HB 56 Section 30 have prevented or delayed Plaintiff CAFHC from working on other projects that it would have completed, including finalizing an Analysis of Impediments, pursuant to a contract awarded by the City of Montgomery; pursuing a planned program to conduct testing for race and disability based housing discrimination in the middle region of Alabama; and participating in a mortgage lending training session.

112. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff FHCNA's mission of eliminating housing discrimination. In order to counteract the discriminatory and unlawful impact of Defendants' acts on the communities it serves, Plaintiff FHCNA will have to divert scarce resources away from regularly planned activities by, *inter alia*, realigning its testing program to target discrimination based on national origin against residents of manufactured home parks, readjusting its client intake counseling to provide information and assess the impacts of HB 56 Section 30 on manufactured home residents, and meeting with community and civil rights groups regarding the impacts that HB 56

Section 30 is having on residents of manufactured homes. In response to HB 56 Section 30 Plaintiff FHCNA has engaged and is engaging in communications with HUD to seek guidance on the fair housing implications of the law and is preparing know-your-rights materials.

113. Because Plaintiff FHCNA is devoting and will continue to devote its limited resources to the activities described in the preceding paragraph, it has been unable to engage in regularly planned programs including testing in fields that it had planned to investigate, such as sales and insurance, and engaging in normal outreach and client intake.

114. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CFH's mission, which is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants' rights, and lending practices. In order to counteract the discriminatory and harmful impact of HB 56 on the communities it serves, Plaintiff CFH has had to reach out to organizations that work with immigrant communities, and it has participated in meetings to discuss the applicability of HB 56 Section 30 to manufactured homes. Plaintiff CFH has spent time researching HB 56 Section 30 and its impact on manufactured home residents, and it has been in communication with HUD regarding problems associated with HB 56's housing restrictions. Plaintiff CFH has also applied to realign its funding from a focus on predatory lending to a focus on outreach and enforcement regarding national origin discrimination in order to respond to HB 56's discriminatory housing restrictions, including Section 30.

115. These counteraction activities have prevented and delayed Plaintiff CFH from working on other planned projects, such as conducting general rental testing and routine outreach activities and conducting education and outreach on other issues.

CLASS ALLEGATIONS

116. Plaintiffs Doe #1 and Doe #2 have filed this Complaint as a class action pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

117. Plaintiffs Doe #1 and Doe #2 request that this Court certify a Class of all similarly situated individuals. The proposed Class definition is: All individuals who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home in Alabama.

118. Plaintiffs Doe #1 and Doe #2 further request that the Court certify a Latino Subclass with the following definition: All Latinos who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home.

119. This action is properly maintained as a class action because:

(a) Joinder of all members of the Class and Latino Subclass is impracticable because of the size of the Class and Subclass.

(i) The Class comprises more than 40 households.

(ii) The Latino Subclass comprises more than 40 households.

(b) The claims alleged on behalf of the Class and Latino Subclass raise questions of law and fact that are common to the Class and Subclass.

(i) All Class members will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.

- (ii) The members of the Latino Subclass are of the same race and national origin. The enforcement of Section 30 of HB 56 is intentionally targeted at members of the Subclass because of their Latino race and national origin, and it will have a disproportionate adverse impact on members of the Subclass.
- (c) The claims of the Class representatives are typical of the Class and Subclass.
- (i) Like the members of the Class, Plaintiffs Doe #1 and Doe #2 will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.
 - (ii) Like the members of the Latino Subclass, Plaintiffs Doe #1 and Doe #2 are Latinos who will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution, due to the discriminatory intent and effect of Defendants' enforcement of Section 30 of HB 56, on grounds of Subclass members' Latino race and national origin.
- (d) The Class and Latino Subclass representatives and Class counsel will fairly and adequately represent the interests of the Class and Subclass. The Class and Latino Subclass representatives have no interests that are antagonistic to the interests of other Plaintiffs, and Class counsel have substantial experience in civil rights and class action litigation.

120. Class-wide declaratory and injunctive relief is appropriate for the Class because Defendants have acted or refuse to act on grounds generally applicable to the Class as a whole.

Defendants have applied and will apply the same policy, custom, and/or practice to all Class members.

121. Class-wide declaratory and injunctive relief is appropriate for the Latino Subclass because Defendants have acted or refuse to act on grounds generally applicable to the Subclass as a whole. Defendants have applied and will apply the same policy, custom, and/or practice to all Latino Subclass members.

122. There are questions of law or fact common to all of the members of the Class and Latino Subclass that predominate over any questions affecting only individuals and a class action is superior to other methods for a fair and efficient adjudication of the controversy. Common questions of law or fact predominate and the controversy is most fairly and efficiently adjudicated via class action because all Class and Latino Subclass members will be subject to the same fines, penalties, and threat of criminal prosecution for the same conduct.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

**For Injunctive and Declaratory Relief under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants**

On Behalf of All Named Plaintiffs and the Latino Subclass

123. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

124. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, maintains, or keeps a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

125. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make registration payments and apply for a manufactured home decal or a moving permit.

126. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits to Plaintiffs Doe #1, Doe #2 and the Latino Subclass will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Injunctive and Declaratory Relief Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of All Named Plaintiffs and the Latino Subclass

127. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

128. Section 40-12-255 of the Alabama Code requires anyone who owns, maintains, or keeps a manufactured home to obtain a decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

129. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make an annual registration fee payment or apply for a manufactured home decal or a moving permit.

130. Defendants' enforcement of Section 30 of HB 56 against Plaintiffs Doe #1, Doe #2, and the Latino Subclass by refusing to accept their annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing occupied by Latino Subclass members, because of their race and national origin, in violation of 42 U.S.C. § 3604(b).

THIRD CAUSE OF ACTION
For Injunctive and Declaratory Relief Under U.S. Const., Art. VI, cl. 2
Against All Defendants
On Behalf of All Named Plaintiffs and the Class

131. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 35-69, 79-92, 97-115, 117, 119-120, and 122 above.

132. The Supremacy Clause, Article VI, Section 2, of the U.S. Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

133. The Supremacy Clause mandates that federal law preempts state law in any area over which Congress expressly or impliedly has reserved exclusive authority or which is constitutionally reserved to the federal government, or where state law conflicts or interferes with federal law.

134. Section 30 of HB 56 makes it a crime for certain non-citizens, including Plaintiffs Doe #1, Doe #2, and members of the Class, to make an annual registration payment or apply for a manufactured home decal or moving permit.

135. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns or maintains a manufactured home to obtain a decal by or before November 30 of each year.

136. The inability to obtain a decal will make housing unavailable to Plaintiffs Doe #1, Doe #2, and members of the Class.

137. Section 30 of HB 56 regulates the terms and conditions under which non-U.S. citizens may remain in Alabama.

138. Section 30 is an impermissible state regulation of immigration, and therefore usurps powers constitutionally vested in the federal government exclusively.

139. Section 30 also conflicts with federal laws, regulations, and policies; attempts to legislate in a field occupied by the federal government; imposes burdens and penalties on legal residents not authorized by and contrary to federal law, and unilaterally imposes burdens on the federal government's resources and processes, each in violation of the Supremacy Clause.

140. Plaintiffs move for relief on this claim directly under the Constitution and also under 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION
For Injunctive and Declaratory Relief Under 42 U.S.C. § 1983 and
U.S. Const., Amend. XIV § 1, cl. 3
Against All Defendants
On Behalf of Plaintiff Doe #1, Plaintiff Doe #2, and the Class

141. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-54, 70-78, and 97-108, 117, 119-120, and 122 above.

142. Defendants' enforcement of Section 30 of HB 56 prohibits Plaintiffs Doe #1, Doe #2, and the Class from complying with the requirements under Alabama Code Section 40-12-255 to pay an annual registration fee and to obtain and prominently display a current manufactured home identification decal. Without a current identification decal, Plaintiffs Doe #1, Doe #2, and the Class will be subject to the penalties established in Alabama Code Section 40-12-255(a) and (k).

143. Defendants' enforcement of Section 30 of HB 56 will force Plaintiffs Doe #1, Doe #2, and the Class to abandon their housing and permanently forfeit their manufactured homes, because they cannot come into compliance with Alabama Code Section 40-12-255(a) or (j).

144. Under Section 27 of HB 56, the individual Plaintiffs and the Class will be unable to sell their homes before abandoning and forfeiting them.

145. Defendants' enforcement of HB 56 Section 30 against Plaintiffs Doe #1, Doe #2, and the Class has deprived and/or will deprive them of their property without substantive due process, in violation the Due Process Clause of the Fourteenth Amendment.

146. Defendants' enforcement of HB 56 Section 30 is pursuant to their official capacities as state actors under color of law and is therefore actionable under the Fourteenth Amendment through 42 U.S.C. § 1983.

FIFTH CAUSE OF ACTION
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants
On Behalf of All Named Plaintiffs

147. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

148. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

149. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

150. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

151. Defendants' violations of 42 U.S.C. § 3604(a) have caused and will continue to cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to compensatory damages under 42 U.S.C. § 3613(c).

SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of the Named Plaintiffs

152. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

153. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

154. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1 and Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

155. Defendants' enforcement of Section 30 of HB 56 by refusing to accept annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing on the basis of race and national origin, in violation of 42 U.S.C. § 3604(b).

156. Defendants' violations of 42 U.S.C. § 3604(b) have caused and will cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to damages under 42 U.S.C. § 3613(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

(1) Issue a temporary restraining order and preliminary injunction immediately enjoining the enforcement of HB 56 Section 30 statewide against Plaintiffs and the Class and Latino Subclass;

(2) Order Defendant Magee to immediately notify all county officials who are responsible for enforcing the manufactured home registration requirements of Section 40-12-255 of the Alabama Code if said temporary restraining order and preliminary injunction is entered;

(3) Certify the Class and Subclass;

(4) Enter a declaratory judgment finding that Defendants' enforcement of HB 56 Section 30 violates the Fair Housing Act, 42 U.S.C. § 3604(a) and (b); the Supremacy Clause of Article VI of the U.S. Constitution; the Due Process Clause of Amendment XIV of the U.S. Constitution; and 42 U.S.C. § 1983.

(5) Enter a permanent injunction enjoining Defendants from enforcing Section 30 of HB 56;

(6) Award compensatory damages to Plaintiffs Doe #1, Doe #2, CAFHC, FHCNA, and CFH for their claims for damages under 42 U.S.C. § 3604(a) and (b);

(7) Award Plaintiffs their reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988 and 3613(c)(2); and

(8) Order such other relief as this Court deems just and equitable.

Dated: November 18, 2011

Respectfully submitted,

s/ Mary Bauer

Mary Bauer

On Behalf of Counsel for Plaintiffs

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* *Pro hac vice* admission to be sought

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

CENTRAL ALABAMA FAIR HOUSING
CENTER;

FAIR HOUSING CENTER OF NORTHERN
ALABAMA;

CENTER FOR FAIR HOUSING, INC.; and

JOHN DOE #1 and JOHN DOE #2, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

JULIE MAGEE, in her official capacity as
Alabama Revenue Commissioner, and

WILLIAM HARPER, in his official capacity
as Elmore County Revenue Commissioner,

Defendants.

Civil Action File No.

**COMPLAINT FOR
DECLARATORY
AND INJUNCTIVE RELIEF
AND FOR DAMAGES**

CLASS ACTION

NATURE OF THE ACTION

1. This is a civil rights action for declaratory and injunctive relief brought by Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, Center for Fair Housing, Inc., John Doe #1, and John Doe #2 for violations of the federal Fair Housing Act, 42 U.S.C. § 3601 et seq., and the Supremacy Clause and Due Process Clause of the U.S. Constitution.

2. Plaintiff John Doe #1 is an undocumented immigrant from Mexico. He owns and resides in a manufactured home in Elmore County, Alabama, along with his partner, five-year-old U.S.-citizen son, and sixteen-year-old nephew.

3. Plaintiff John Doe #2 is an undocumented immigrant from Mexico. Like Plaintiff Doe #1, Plaintiff Doe #2 owns and resides in a manufactured home in Elmore County, along with his partner, his five-year-old U.S.-citizen son, and his partner's parents and three brothers.

4. This action is brought against Defendant Julie Magee in her official capacity as Alabama Revenue Commissioner and Defendant William Harper in his official capacity as the Revenue Commissioner of Elmore County, Alabama.

5. Section 30 of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Laws 535 (commonly referred to as "HB 56"), forbids "[a]n alien not lawfully present in the United States" from entering into or attempting to enter into "any transaction . . . [with] the state or a political subdivision of the state," with the sole exception of obtaining a marriage license.¹ It further forbids any person from entering into or attempting to enter into such a transaction on behalf of an "alien not lawfully present in the United States." An individual found in violation of Section 30 can be convicted of a Class C felony and subjected to up to ten years' imprisonment.

6. Section 40-12-255 of the Alabama Code requires that all individuals who own, maintain, or keep a manufactured home in Alabama engage in a "transaction" with the State, within the meaning of Section 30 of HB 56. Specifically, by no later than November 30 of each calendar year, any such person must pay an annual registration fee and display a current identification decal in a conspicuous location on the outside of her manufactured home. Section 40-12-255 imposes progressive fines and penalties for non-compliance, including imprisonment.

¹ A copy of the enrolled Bill is attached as Attachment 1. HB 56 has not been codified yet but is unofficially reported in electronic databases at Ala. Code § 31-13-1 *et seq.* (West 2011) and Ala. Code § 31-9C-1 *et seq.* (Michie/LexisNexis 2011).

7. Defendants Magee and Harper have adopted and implemented a policy, pursuant to the requirements of Section 30 of HB 56, to reject annual manufactured home registration payments from, and thus deny identification decals to, individuals who are unable to demonstrate U.S. citizenship or lawful immigration status. In other words, Defendants' policy treats the act of complying with Alabama Code § 40-12-255 as a "business transaction" under HB 56 Section 30.

8. Until the passage and implementation of Section 30 of HB 56, Plaintiffs Doe #1 and Doe #2 were allowed to register their manufactured homes pursuant to Alabama Code Section 40-12-255.

9. Defendants' policy for enforcing HB 56 Section 30 makes it impossible for Plaintiffs Doe #1 and Doe #2 to make the annual registration payment and obtain current identification decals for their manufactured homes, as they are required to do under Alabama Code Section 40-12-255 by no later than November 30, 2011. If Plaintiffs Doe #1 and Doe #2 attempt to pay their annual registration fees in order to obtain current identification decals, they could face Class C felony charges for attempting to enter into a transaction with the State, in violation of HB 56 Section 30. But if Plaintiffs Doe #1 and Doe #2 do not pay the annual registration fee and do not display a current identification decal by November 30, 2011, they will face fines, penalties, and Class C misdemeanor charges for violating the Manufactured Homes statute, Alabama Code Sec. 40-12-255.

10. Defendants' policy of enforcing HB 56 Section 30 further makes it impossible for Plaintiffs Doe #1 and Doe #2 to move their manufactured homes on public roads in Alabama. Under subsection (j) of the Manufactured Homes Statute, a permit is required to make such a move, yet any effort to obtain a moving permit would also constitute a "business transaction"

within the meaning of Section 30 of HB 56. Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor under Alabama Code Section 40-12-255(j)(4).

11. Section 27 of HB 56 makes unenforceable in Alabama courts virtually any contract that takes more than 24 hours to complete and is entered into where the parties know or should have known that one of them is a non-U.S. citizen who lacks proof of lawful immigration status.

12. In the event of eviction from the manufactured home parks where they currently reside, Plaintiffs Doe #1 and Doe #2 may therefore be forced to abandon their homes because under HB 56 they cannot lawfully move them, and any sale contract may be unenforceable.

13. Plaintiffs Doe #1 and Doe #2 bring this case on behalf of themselves and a Class of similarly situated residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

14. Plaintiffs Doe #1 and Doe #2 also bring this case on behalf of themselves and a Subclass of similarly situated Latino residents of Alabama who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status.

15. Defendants' policy of enforcing Section 30 so as to refuse annual registration payments from and to deny manufactured home identification decals to individuals who cannot demonstrate U.S. citizenship or lawful immigration status will cause immediate and irreparable harm to Plaintiffs Doe #1 and Doe #2 and their families, as well as to similarly situated individuals who own, maintain, or keep manufactured homes in Alabama.

16. Defendants' policy of enforcing Section 30 so as to refuse to accept annual registration payments from, and to deny manufactured home identification decals to, members of

the Class and Subclass has injured and will continue to injure organizational Plaintiffs Central Alabama Fair Housing Action Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc. These Plaintiffs have already diverted and will be forced to continue to divert scarce resources away from their core activities in order to conduct education, outreach, and advocacy on behalf of communities throughout Alabama concerning the impact of HB 56 Section 30 on immigrants who live in manufactured homes and who face fines, penalties, and the threat of criminal prosecution if they cannot pay their annual registration fees and receive the required identification decals.

17. Defendants' policy pursuant to HB 56 of refusing annual registration payments from and denying current identification decals to individuals who live in manufactured homes and who cannot show proof of U.S. citizenship or lawful immigration status violates the Fair Housing Act, the Supremacy Clause of the U.S. Constitution, and the Due Process Clause of the U.S. Constitution.

JURISDICTION AND VENUE

18. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331, 1343(a)(4), 2201, 2202, and 42 U.S.C. § 3613(a)(1)(A).

19. Venue is proper in this District and Division pursuant to 28 U.S.C. §§ 81 and 1391(b). Defendant Magee and Defendant Harper reside in this State; Defendant Harper is employed in this District and Division as a County official; and Defendant Magee is employed in this District and Division as a State official. A substantial part of the events and omissions giving rise to Plaintiffs' claims have occurred and/or will occur in this District and Division.

PARTIES

Organizational Plaintiffs

20. The three organizational Plaintiffs collectively provide fair housing services in nearly every county within Alabama. Their core activities include advocating for equal housing opportunities, assisting victims of housing discrimination, and enforcing compliance with the federal Fair Housing Act and related fair housing laws.

21. **Plaintiff Central Alabama Fair Housing Center** (“CAFHC”) is an Alabama non-profit corporation, with its principal place of business in Montgomery, Alabama. Founded in 1995, CAFHC’s mission is to promote understanding of the Fair Housing Act and to enforce the Fair Housing Act. It advances that mission through educational activities including speaking to community groups and individuals most likely to experience housing discrimination, training housing providers in fair housing issues, and conducting intake and investigations.

22. Plaintiff CAFHC provides fair housing services in the following Alabama Counties: Autauga, Barbour, Bullock, Butler, Chambers, Chilton, Coffee, Coosa, Covington, Crenshaw, Dale, Dallas, Elmore, Geneva, Greene, Hale, Henry, Houston, Lee, Lowndes, Macon, Marengo, Montgomery, Perry, Pike, Russell, Sumter, Tallapoosa, and Wilcox.

23. **Plaintiff Fair Housing Center of Northern Alabama** (“FHCNA”) is an Alabama non-profit corporation, with its principal place of business in Birmingham, Alabama. Plaintiff FHCNA was founded in 1993. Its mission is the elimination and eradication of housing discrimination through education and enforcement activities. FHCNA seeks to ensure that all individuals who seek housing are given fair and equal access to housing of their choice. In furtherance of this mission, Plaintiff FHCNA hosts public seminars for housing providers and

community members, engages in outreach activities, undertakes investigations, and files administrative complaints. Plaintiff FHCNA provides fair housing services in the following Alabama Counties: Blount, Calhoun, Cherokee, Colbert, Cullman, DeKalb, Etowah, Fayette, Franklin, Jackson, Jefferson, Lauderdale, Lawrence, Limestone, Madison, Marion, Marshall, Morgan, Pickens, Shelby, St. Clair, Talladega, Tuscaloosa, Walker, and Winston.

24. **Plaintiff Center for Fair Housing, Inc.** (“CFH”) is an Alabama non-profit corporation, founded in 1998, with its principal place of business in Mobile, Alabama. CFH’s mission is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants’ rights, and fair lending practices, in order to promote healthier and more inclusive communities. Plaintiff CFH provides these fair housing services in the following Alabama Counties: Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

Individual Plaintiffs

25. **Plaintiff John Doe #1** resides in Elmore County in a manufactured home that he owns. He lives with his partner and five-year-old son, who is a U.S. citizen. Plaintiff Doe #1 is originally from Mexico and came to the United States approximately eight years ago. He rents a lot for his manufactured home in Elmore, Alabama.

26. **Plaintiff John Doe #2** resides in Elmore County in a manufactured home that he owns. Plaintiff Doe #2 came to the United States from Mexico in 2002. He rents a lot for his manufactured home in Millbrook, Alabama, where he lives with his partner, their five-year-old son, and his partner’s parents and three brothers. Plaintiff Doe #2’s son is a U.S. citizen.

Defendants

27. **Defendant Julie Magee** is the Revenue Commissioner for the State of Alabama. As the head of the Alabama Department of Revenue, she is charged with carrying out the duties of the Department, which by Alabama law include “general and complete supervision and control of,” *inter alia*, “the collection of all property, privilege, license, excise, intangible, franchise, or other taxes for the state and counties.” Ala. Code § 40-2-11(1). Defendant Magee is responsible for supervising and directing the work of all state and county officials who are charged with the assessment and collection of taxes, including the manufactured home registration fee at issue in this case. She is sued in her official capacity.

28. **Defendant William Harper** is the Revenue Commissioner for Elmore County, Alabama. He is responsible for collecting payments and issuing manufactured home registration decals to manufactured home owners who reside in Elmore County. He is sued in his official capacity.

FACTUAL ALLEGATIONS

A. Alabama’s Manufactured Homes Statute

29. In Alabama, a “manufactured home” is subject to the requirements of Section 40-12-255 of the Alabama Code. Section 40-12-255(a) requires that any “person, firm, or corporation who owns, maintains, or keeps . . . a manufactured home” pay an annual registration fee and an issuance fee in order to obtain a current identification decal. The identification decal, which is designed and issued by the Alabama Department of Revenue, is color-coded to indicate the year in which it was issued and must be displayed on the outside of the manufactured home at eye level, so as to be “clearly visible from the street.” *Id.*

30. Under Alabama law, the County official with responsibility for collecting taxes and other assessments has the duty to collect the annual manufactured home registration fees, to issue identification decals, and to impose fines and penalties for late payments. In Elmore County, Defendant Harper is the County official who is assigned these responsibilities.

31. The registration fee and issuance fee are due on October 1 of each year and are considered delinquent if not paid by November 30 of each year. An individual who fails to pay the registration fee and issuance fee by November 30 will be fined a \$10 delinquent fee and a \$15 citation fee. An additional penalty is imposed if the delinquent fee and citation fee are not paid within 15 days of the first citation. Ala. Code § 40-12-255(b). An individual cannot obtain a current identification decal for his or her manufactured home until all outstanding fees and penalties have been satisfied.

32. In addition to the fines and penalties identified above in Paragraph 31, an individual who violates any provision of Section 40-12-255 is guilty of a Class C misdemeanor. Ala. Code § 40-12-255(l). Under Alabama law, a Class C misdemeanor is punishable with a three-month jail term, in addition to a fine of at least \$50 and up to \$500. *Id.*; §§ 13A-5-7 and 13A-5-12.

33. In order to obtain a permit to move a manufactured home on public roads in Alabama, a manufactured home owner must obtain a permit from the County official who administers the manufactured home registration laws in the County where the manufactured home is currently being kept. Proof of payment of the current registration fee, as well as any outstanding fines and penalties, is required to obtain a moving permit. Ala. Code § 40-12-255(j)(1). Failure to obtain a moving permit before moving a manufactured home on public roads is punishable as a Class C misdemeanor. § 40-12-255(j)(4).

34. Any state, county or municipal law-enforcement officer, or license inspector is authorized to issue citations for violations of Alabama Code Section 40-12-255, pursuant to Section 40-12-257.

B. Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535

35. On June 2, 2011, the Alabama legislature adopted the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, Act 2011-535, a comprehensive state immigration scheme that extensively regulates immigration, immigrants, and those who associate or interact with immigrants. This law is commonly referred to as HB 56.

1. Text of Section 30 of HB 56

36. Section 30 of HB 56 became effective on September 28, 2011.

37. Section 30 of HB 56 defines and utilizes a new legal term, a “business transaction.” HB 56 § 30(a). The term “business transaction” is defined as “*any* transaction between a person and the state or a political subdivision of the state,” with the only exception being for marriage licenses. *Id.* (emphasis added).

38. The term “business transaction” is vaguely defined in exceptionally broad and misleading terms. As defined by statute, it is not limited to transactions involving “business.”

39. The term “business transaction” is broad enough to include numerous transactions with state and local officials that relate to housing, the ability to rent or buy housing, and the provision of services and facilities in connection with housing, therefore implicating compliance with the federal Fair Housing Act and other civil rights laws.

40. Section 30 of HB 56 makes it a Class C felony—punishable by up to ten years’ imprisonment, *see* Ala. Code § 13A-5-6—for an “unlawfully present alien” to enter or attempt to

enter into virtually any transaction with the state or local government agency. HB 56 § 30(b), (d).

41. Section 30 of HB 56 also prohibits a third party from entering or attempting to enter into virtually any transaction with the State or a political subdivision on behalf of an alien not lawfully present in the United States, again at penalty of a Class C felony conviction. *Id.*

42. Section 30 of HB 56 provides that any person entering or attempting to enter into a transaction with the State or a political subdivision of the state shall be required to demonstrate to the person conducting the transaction on behalf of the state/political subdivision that the applicant is a U.S. citizen, or, if he or she is an alien, that he or she has lawful presence in the United States. HB 56 § 30(c).

43. Section 30 of HB 56 further provides that U.S. citizenship must be proven by producing one of an enumerated list of documents. *Id.*; *see also* HB 56 § 29(k). If a person does not possess one of the enumerated documents but is in fact a U.S. Citizen, that person cannot satisfy the proof requirements of Section 30.

44. Section 30 of HB 56 further provides that an alien's lawful presence shall be demonstrated solely by the state or political subdivision's verification of the alien's lawful presence through the Systematic Alien Verification for Entitlements ("SAVE") program operated by the federal Department of Homeland Security ("DHS"), or by other verification with DHS pursuant to 8 U.S.C. § 1373(c). *Id.*

45. SAVE is an inter-governmental initiative designed to aid public benefit-granting agencies in determining an applicant's immigration status, and thereby ensure that only entitled applicants receive federal, state, or local public benefits and licenses.

46. Section 1373(c) of Title 8 of the U.S. Code requires the federal immigration agency to respond to certain immigration status inquiries by state and local agencies. After passage of Section 1373(c), the Immigration and Naturalization Service (now Department of Homeland Security) created the Law Enforcement Support Center to respond to requests for state and local law enforcement officers. There is, however, no system under § 1373(c) to verify citizenship or immigration status for individuals attempting to renew registration of manufactured homes or relating to any housing issues.

47. Neither the federal SAVE system, nor any federal system for status inquiries under § 1373(c), has been authorized by the federal government to verify immigration status in order to disqualify individuals from paying registration fees for manufactured homes or for any related purpose.

48. Moreover, federal determinations made under the SAVE system or any other system set up by § 1373(c), are merely snapshots of an individuals' status at some point prior to the status check and do not provide reliable or accurate immigration status determinations.

49. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner is not enrolled in, and cannot currently utilize, the SAVE program to determine whether manufactured home owners or renters are U.S. citizens or have lawful immigration status.

50. Upon information and belief, Defendant Harper and the Elmore County Office of the Revenue Commissioner are not authorized to use, and cannot currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

51. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees has received approval to use SAVE to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

52. Upon information and belief, no county or state official in Alabama charged with collecting manufactured home registration fees can currently utilize 8 U.S.C. § 1373(c) to verify whether residents of manufactured homes are U.S. citizens or have lawful immigration status.

53. As a result, state and local officials are making their own determinations about the applicants' U.S. citizenship or lawful immigration status before allowing them to renew manufactured home registration and are implementing Section 30 in a manner expressly at odds with HB 56.

54. HB 56 does not establish any process by which an individual can challenge a determination by a state or local official that he or she is not "authorized" to be in the United States.

2. History and Intent of Section 30 of HB 56

55. The legislative history of Section 30 of HB 56 reveals a plain legislative intent to drive those suspected of being undocumented immigrants, and in particular minority immigrants of Latino heritage, out of Alabama by making living conditions miserable for them or by funneling them into deportation proceedings.

56. Representative Hammon, who introduced the bill in the House, explained: "This [bill] attacks *every aspect* of an illegal immigrant's life. They will not stay in Alabama [T]his bill is designed to make it difficult for them to live here so they will deport themselves." He also noted, "[W]e do want to affect every aspect of someone's life and make it a little more difficult for them to live here." In no uncertain terms, Representative Hammon stated: "[T]he

intent of this bill is to slow illegal immigration in Alabama through attrition.” He emphasized: “We are going to deter illegal immigrants from the State of Alabama.”

57. Senator Beason, who introduced a similar omnibus immigration bill in the Senate, and who ultimately consolidated his bill with Hammon’s to form HB 56, also expressed his views that the intent of HB 56 was to drive immigrants from the state. In a speech he delivered in February 2011, just before the legislative session commenced, he noted, “The reality is that if you allow illegal immigration to continue in your area you will destroy yourself eventually If you don’t believe illegal immigration will destroy a community go and check out parts of Alabama around Arab and Albertville.”

58. Section 30 of HB 56 is designed to achieve these goals by making it impossible for undocumented immigrants who reside in manufactured homes to continue living in this State.

59. The entirety of HB 56, including Section 30, is specifically targeted at making Latinos leave Alabama. The State officials who enacted and are implementing Section 30 of HB 56 knew that Section 30, and HB 56 in its entirety, would have the greatest impact on Latino immigrants. Latinos make up a majority of the State’s foreign-born population. And although only a small percentage of Latino immigrants in Alabama are undocumented, a majority of Alabama’s undocumented population is Latino.

60. Representative Rich, who voted for the bill, remarked that although he “like[s] Hispanic people,” “95 percent of the children that are in the elementary school at Crosswell Elementary School are Hispanic, 95 percent of them. 52 percent of the children that attend Albertville Elementary and Primary School are Hispanic, and the biggest part of them are illegal.” Representative Rich did not identify a source of information or any other factual basis for his allegation that “the biggest part of” the school children discussed were undocumented.

61. Contrary to Representative Rich’s assertion, in Alabama approximately 85% of all children whose parents are not lawfully present in the United States are U.S. citizens.

62. Representative Hammon has also conflated Latinos with undocumented immigrants. For example, on June 2, 2011, the date that the House of Representatives passed the final version of HB 56, Representative Hammon explained the need for the bill by claiming that “the illegal immigration population in Alabama is the second fastest growing in the country and the people in our state need jobs back.” When asked for evidence to substantiate this claim, he pointed to a news article that observed that the State’s *Latino* population had grown by 145% from 2000 to 2010, the second highest percentage of growth in the country for that ten-year period. The article did not, however, discuss any data or studies of undocumented immigrant populations. It was limited to a discussion of Alabama’s Latino population.

63. Similarly, Senator Beason singled out Arab and Albertville, both of which are in Marshall County, as examples of communities that have allegedly been destroyed by the presence of undocumented persons. Senator Beason’s comments were in no uncertain terms directed at Latino immigrants. Compared to the rest of the State, Marshall County has a large Latino population: 12% of Marshall County residents are Latino, compared to less than 4% of the State population. Moreover, Marshall County has no other significant immigrant population.

64. Those who opposed the legislation likewise understood that it took aim at Mexicans and other Latinos. Senator Singleton observed: “[T]he fact of the matter is that we know that when we talk about illegal immigration that it is basically targeted at one ethnic group and that seems to be the Latino Hispanic Americans” Senator Holmes stated: “The purpose of this bill is . . . these Mexicans [Y]ou all are trying to get as many in here out and trying to stop as many coming in [as you can]” Representative Jackson warned that the effects of HB

56 would reach even further than targeting Latinos: “It just doesn’t stop at the people coming from Mexico. This is not here just for them. This thing is going to have great repercussion for all minorities.”

65. At times supporters of HB 56 have spoken in violent terms about their desire to eradicate immigrants in Alabama. For example, at a town hall meeting this summer after HB 56 passed, Alabama Congressman Mo Brooks stated, in reference to his desire to force undocumented immigrants out of Alabama, that “[a]s your congressman on the house floor, I will do anything short of shooting them.”

66. In enacting HB 56 generally, and Section 30 specifically, Alabama legislated in an area committed exclusively to the federal government under the U.S. Constitution. Indeed, by passing HB 56, Alabama has intruded into an area of exclusive federal control and has sought to supplant the federal government in key respects.

67. Contrary to long-settled law that establishes the federal government’s exclusive role in regulating immigration, Section 30 of HB 56 reflects the view that the State of Alabama should regulate immigration on its own. Alabama has sought to use its self-granted power to attempt to drive people who are perceived to be undocumented out of the State through the denial of housing and housing-related local services. As Representative Hammon stated during legislative debates, “[I]t is the State’s responsibility to handle this issue and not the federal government.” He explained, “[T]his issue is now the responsibility of the State of Alabama and not the federal government.” He explained, in reference to federal immigration law and policy, that “[w]e are not going to depend on a broken system Here in Alabama we are not going to ignore the problem.”

68. HB 56 allows the State of Alabama to take control of immigration enforcement which Alabama has sought to justify by arguing that the federal government has failed to act to the State’s satisfaction. Representative Hammon remarked when he introduced the bill, “[I]t appears that the federal government has defaulted on their responsibility of enforcing federal immigration law. And they have forfeited that right to the States.” Senator Beason concurred with this sentiment, noting in the Senate debates that “[i]f the federal government would enforce their laws that they have on the books, the states would not be required to begin to do things to help enforce those laws.”

69. Representative Hammon, one of the two sponsors of HB 56, has publicly applauded efforts by local officials to deny essential housing-related services to individuals like Plaintiff Doe #1 and Plaintiff Doe #2, precisely because these acts will have the effect of driving Plaintiffs and other similarly situated people out of Alabama. As Representative Hammon explained this October when he was asked his views on new policies by certain public utilities to deny services to undocumented individuals under Section 30:

Our goal [through Section 30] was to prevent any business transactions with any governments. It’s just an extension of the goal of the entire bill—to prevent illegal immigrants from coming to Alabama and *to discourage those that are here from putting down roots. . . . It seems to be working. . . . We’re seeing a lot of illegal immigrants self-deport.*

C. Complying with Alabama’s Manufactured Homes Statute Constitutes a “Business Transaction” with the State, Which Is Forbidden to Undocumented Immigrants Under HB 56 Section 30.

70. The process of submitting a payment for the annual manufactured home registration fee and obtaining a current identification decal, as required by Alabama Code Section 40-12-255(a), is a “business transaction with the State” subject to HB 56 Section 30(a).

71. Applying for a moving permit pursuant to Alabama Code Section 40-12-255(j) is also a “business transaction with the State” subject to HB 56 Section 30(a).

72. Thus, the enforcement of HB 56 Section 30 will harm individuals who own, maintain, or keep manufactured homes and lack proof of U.S. citizenship or lawful immigration status. Such individuals will be denied the rights to make an annual manufactured home registration payment, obtain a current identification decal, and apply for a moving permit.

73. Without a current registration payment and identification decal, any individual who owns, maintains, or keeps a manufactured home in Alabama will be subject to serious repercussions, including fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code § 40-12-255(a), (l); §§ 13A-5-7 and 13A-5-12.

74. Without a moving permit, an individual who attempts to transport a manufactured home on public roads in Alabama is subject to fines and penalties, conviction of a Class C misdemeanor, and up to three months’ imprisonment. Ala. Code §§ 40-12-255(j)(1) and (4); §§ 13A-5-7 and 13A-5-12.

75. In addition, an individual without documentation of U.S. citizenship or lawful immigration status who attempts to submit an annual manufactured home registration payment, obtain a current identification decal, or apply for a moving permit may be charged with a Class C felony and imprisoned for up to ten years under HB 56. HB 56 § 30(b), (d); Ala. Code § 13A-5-6.

76. An individual who attempts to submit a registration payment, obtain a current identification decal, or apply for a moving permit on behalf of an undocumented immigrant will likewise be charged with a Class C felony and can be sentenced to a ten-year prison term. *Id.*

77. Defendant Harper, in his capacity as the Revenue Commissioner of Elmore County, has announced a policy pursuant to HB 56 Section 30 of requiring proof of U.S. citizenship or lawful immigration status in order for an individual to make an annual manufactured home registration payment and obtain a current identification decal. Defendant Harper's policy makes it impossible for Plaintiffs Doe #1 and Doe #2 to comply with Alabama Code Section 40-12-255 because they are not allowed to submit their annual registration payments or obtain a current identification decal.

78. Section 30 of HB 56 applies statewide. Thus the same policy described in the preceding paragraph will be and is already being faced by every member of the Class and Subclass, regardless of which county they live in. In each of these counties, Defendant Magee is responsible for supervising and directing the work of the county revenue commissioners from whom Class and Subclass members must obtain identification decals for their manufactured homes.

D. Section 30 of HB 56 Is Federally Preempted.

79. The federal government has exclusive power over immigration matters. The U.S. Constitution grants the federal government the power to "establish a uniform Rule of Naturalization," U.S. Const. art. I § 8, cl. 4, and to "regulate Commerce with foreign Nations," U.S. Const. art. I § 8, cl. 3. In addition, the Supreme Court has held that the federal government's power to control immigration is inherent in the nation's sovereignty.

80. Congress has created a comprehensive system of federal laws, agencies, and procedures regulating immigration. *See generally* Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

81. The extensive statutory scheme created by the INA leaves no room for supplemental state immigration laws. A state law that regulates the terms and conditions under which non-citizens may remain in the State are preempted as an impermissible regulation of immigration.

82. State laws, like Section 30, that encroach on areas where Congress has indicated an intent to occupy the field—such as the regulation of the residence of non-citizens—are preempted. As are state laws that conflict with federal immigration law.

83. Section 30 of HB 56 dramatically alters the conditions under which non-citizens may remain in Alabama. By specifically requiring all non-citizens to prove that they have lawful status in order to obtain a manufactured home decal, this Section fundamentally affects the terms and conditions under which non-citizens may remain in a dwelling in the State.

84. Furthermore, certain categories of non-citizens, like Plaintiffs Doe #1 and Doe #2 and the members of the Class and Subclass, are unable to continue to live in their homes under this regime without threat of fines, penalties, or criminal prosecution. As such, Section 30 fundamentally alters the rights of residence of the members of the Class and Subclass and the individual Plaintiffs.

85. As Section 30 is currently being implemented to deny decals to manufactured home owners in the State, local officials are being required to make independent determinations of immigration status—a complex task for which they are not equipped, trained, or authorized to undertake. This is because in determining whether an individual attempting to renew their manufactured home registration is a U.S. citizen or lawful immigrant, state and local officials do not have access to federal databases on immigration and citizenship status. Instead, these state

and local officials are scrutinizing documents and making their own conclusions about individuals' citizenship and immigration status—determinations they are not trained to make.

86. Under the INA, a non-citizen's immigration status may be fluid and subject to change over time. A non-citizen who enters the United States with authorization, with a student visa for example, may remain in the country past his period of authorized stay and thus no longer be in status. Alternatively, he may overstay his original visa yet remain in status; for example, if he is eligible to and does change into a different visa classification. Conversely, a non-citizen who enters the United States without authorization, for example by crossing into the country by foot while evading border authorities, may subsequently gain lawful status, such as through a successful asylum application or grant of Temporary Protected Status.

87. The fluidity of immigration status is a fundamental feature of federal immigration law. It is a direct and unavoidable consequence of the system of immigration regulation that Congress has prescribed. This feature, moreover, accommodates many important national interests including, for example, the nation's humanitarian and international law obligations regarding asylum seekers and people fleeing torture.

88. Section 30 of HB 56 presumes that immigration status is definite, not subject to nuance, and readily and quickly ascertained. But those presumptions are not accurate.

89. Moreover, whether a person is a citizen of the United States is not always easily ascertained in the contexts demanded by Section 30 of HB 56. U.S. citizens are not required to carry documentary proof of their citizenship. Section 30 requires utilization of a list of documents, *see* HB 56 §§ 30(c), 29(k), but there is no guarantee that every U.S. citizen will possess one of these documents.

90. Furthermore, there is no national database that contains information about every U.S. citizen. Some people are actually unaware of their U.S. citizenship because they may have acquired U.S. citizenship at birth by operation of law due to their parents' citizenship, despite not having been born in the United States. *See, e.g.*, 8 U.S.C. § 1431. Others automatically obtain citizenship when their parents become naturalized U.S. citizens. *See, e.g.*, 8 U.S.C. § 1433.

91. The federal government has a core, constitutionally protected interest in setting a uniform federal immigration scheme, and in conducting foreign relations with other nations. State immigration laws interfere with these core interests.

92. Because the United States' immigration policy is inextricably intertwined with foreign relations, Alabama's attempt to regulate immigration through Section 30 of HB 56 will adversely impact the United States' ability to conduct foreign relations with other countries. HB 56 will undermine the ability of the U.S. government to speak with a single voice about immigration, including communicating to foreign nations as to what their nationals can expect when they come to visit or reside in the United States. State attempts to interfere with these inherently federal issues can have severe impacts on foreign relations.

E. Defendants' Enforcement of Section 30 of HB 56 Has a Disproportionate Adverse Impact on Alabama Latinos.

93. Defendants' enforcement of Section 30 of HB 56 as alleged above in Paragraphs 70-78 has a disproportionate adverse impact on Latinos in the State.

94. In Alabama, Latinos are significantly more likely than any other group to live in manufactured homes. Nearly a third (27.6%) of all Latinos living in Alabama reside in the U.S. census housing category "Mobile home, boat, RV, van, etc.," compared to 14.3% of non-Latino

Caucasians, 10.2% of non-Latino African Americans, and 3.2% of Asians. Considering the population of Alabama as a whole, only 13.5% of the population lives in mobile homes.²

95. Latinos are overrepresented among Alabama's foreign-born, non-U.S. citizen population. Latinos make up almost 45% of Alabama's foreign-born, non-naturalized population, whereas the total population of Alabama is less than 4% Latino. Approximately 65% of Alabama's non-U.S. citizen population is Latino.

96. Of Alabama's undocumented immigrant population, a large majority are Latino. Nationwide, approximately 77% of all undocumented immigrants are Latino.

INJURIES TO THE NAMED PLAINTIFFS

A. Harm to Individual Named Plaintiffs

97. Plaintiff Doe #1 and Plaintiff Doe #2 own and live in manufactured homes located in Elmore County, Alabama.

98. Because of Defendant Harper's policy, Plaintiff Doe #1 and Plaintiff Doe #2 face an impossible quandary. If they attempt to submit the annual registration payment and to obtain a current identification decal as required by Alabama Code Section 40-12-255(a), and/or to obtain a moving permit in order to move their manufactured homes out of Alabama by traveling on public roads, they will be subject to the harsh penalties established in HB 56 Section 30(d), and they will be denied the decal or permit for which they would be applying. If Plaintiff Doe #1 and Plaintiff Doe #2 fail to obtain a current identification decal and/or attempt to move their manufactured homes out of Alabama by traveling on public roads without a moving permit, they will be subject to similarly draconian penalties established in Alabama Code Section 40-12-255(a), (j), and (l).

² Under Alabama law a mobile home is a "manufactured home" subject to Alabama Code Section 40-12-255.

99. If subjected to the enforcement of HB 56 Section 30, Plaintiff Doe #1 and Plaintiff Doe #2 could be forced to abandon their housing and permanently forfeit their manufactured homes, because there will be no way for them to come into compliance with Alabama Code Section 40-12-255(a). Under Section 27 of HB 56, these Plaintiffs will not be able to sell their homes if they are forced to leave the manufactured home parks where they now live with their families.

100. Plaintiff Doe #1 wants to comply with Alabama Code Section 40-12-255 but knows he cannot do so if Defendants continue their policy of enforcing HB 56 Section 30.

101. Plaintiff Doe #1 fears that if he is unable to obtain a current identification decal, he and his partner and their U.S.-citizen son will have to abandon their home in order to avoid the fines, penalties, and criminal charges that are authorized under Alabama Code Section 40-12-255 for failure to display a valid identification decal.

102. Plaintiff Doe #1 does not know where else he could find housing if he had to give up his current home. He and his partner would have to leave behind their jobs and their church community and would have to pull their U.S.-citizen son out of school. Plaintiff Doe #1 is afraid that his son's education would be jeopardized if his family had to leave their home in Elmore.

103. Since the adoption of HB 56, Plaintiff Doe #1, his partner, and his son have suffered continuing anxiety and fear.

104. Plaintiff Doe #2 wants to do what is required under Alabama Code Section 40-12-255, but he is unable to make the annual registration payment and obtain a current decal because of Defendants' policy of enforcing Section 30 of HB 56.

105. Plaintiff Doe #2 is afraid that he will be fined, imprisoned, or deported if he cannot make the annual registration payment and obtain a current identification decal for his manufactured home, where he lives with his partner, son, and five extended family members.

106. Plaintiff Doe #2 fears that because of Defendants' challenged acts, he and his family may have to abandon their home, without being able to sell it. Plaintiff Doe #2 does not know where he and his family could move if they can no longer live in their home in Millbrook. He is worried that he would not be able to find work to support his family, and he does not want to make his young U.S.-citizen son leave his school and his friends.

107. Plaintiff Doe #2 fears that his partner and son's well-being will suffer if Plaintiff Doe #2 is detained or deported, pursuant to Defendants' enforcement of Section 30 of HB 56.

108. Because they will not have current decals on the outside of their homes, Plaintiffs Doe #1 and Doe #2 will be involuntarily yet conspicuously in violation of their lawful obligations under Alabama Code Section 40-12-255. Being forced to be visibly out of compliance with the law will significantly heighten the exposure of Plaintiffs Doe #1 and Doe #2 and their families to law enforcement, who pursuant to the new authority conferred by Section 12 of HB 56 are obligated "where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States," to make inquiries into that person's citizenship and immigration status. HB 56 § 12(a). Plaintiffs Doe #1 and Doe #2 thus face an increased risk of arrest and detention because of Defendants' enforcement of HB 56 Section 30.

B. Harm to Organizational Plaintiffs

109. Defendants' enforcement of HB 56 Section 30 has harmed and will continue to harm Plaintiffs CAFHC, FHCNA, and CFH.

110. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CAFHC's mission of promoting understanding of and enforcing fair housing laws. In order to counteract the effects of Defendants' acts by educating people about their rights, Plaintiff CAFHC staff members have had to spend time researching the enforcement policies adopted by different counties in Alabama, the criminal and fair housing implications of the law, and related state-law requirements applicable to manufactured homes. Plaintiff CAFHC personnel have also prepared for and presented at know-your-rights training sessions to speak about HB 56 Section 30 to people who live in manufactured home residents and drafted an educational flyer with information about HB 56 Section 30 and manufactured home decals.

111. The need for these counteraction activities that are in specific response to Defendants' enforcement of HB 56 Section 30 have prevented or delayed Plaintiff CAFHC from working on other projects that it would have completed, including finalizing an Analysis of Impediments, pursuant to a contract awarded by the City of Montgomery; pursuing a planned program to conduct testing for race and disability based housing discrimination in the middle region of Alabama; and participating in a mortgage lending training session.

112. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff FHCNA's mission of eliminating housing discrimination. In order to counteract the discriminatory and unlawful impact of Defendants' acts on the communities it serves, Plaintiff FHCNA will have to divert scarce resources away from regularly planned activities by, *inter alia*, realigning its testing program to target discrimination based on national origin against residents of manufactured home parks, readjusting its client intake counseling to provide information and assess the impacts of HB 56 Section 30 on manufactured home residents, and meeting with community and civil rights groups regarding the impacts that HB 56

Section 30 is having on residents of manufactured homes. In response to HB 56 Section 30 Plaintiff FHCNA has engaged and is engaging in communications with HUD to seek guidance on the fair housing implications of the law and is preparing know-your-rights materials.

113. Because Plaintiff FHCNA is devoting and will continue to devote its limited resources to the activities described in the preceding paragraph, it has been unable to engage in regularly planned programs including testing in fields that it had planned to investigate, such as sales and insurance, and engaging in normal outreach and client intake.

114. Defendants' enforcement of HB 56 Section 30 has frustrated and will continue to frustrate Plaintiff CFH's mission, which is to advocate, enforce, and educate the communities it serves in the areas of fair and adequate housing, public accommodations, tenants' rights, and lending practices. In order to counteract the discriminatory and harmful impact of HB 56 on the communities it serves, Plaintiff CFH has had to reach out to organizations that work with immigrant communities, and it has participated in meetings to discuss the applicability of HB 56 Section 30 to manufactured homes. Plaintiff CFH has spent time researching HB 56 Section 30 and its impact on manufactured home residents, and it has been in communication with HUD regarding problems associated with HB 56's housing restrictions. Plaintiff CFH has also applied to realign its funding from a focus on predatory lending to a focus on outreach and enforcement regarding national origin discrimination in order to respond to HB 56's discriminatory housing restrictions, including Section 30.

115. These counteraction activities have prevented and delayed Plaintiff CFH from working on other planned projects, such as conducting general rental testing and routine outreach activities and conducting education and outreach on other issues.

CLASS ALLEGATIONS

116. Plaintiffs Doe #1 and Doe #2 have filed this Complaint as a class action pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

117. Plaintiffs Doe #1 and Doe #2 request that this Court certify a Class of all similarly situated individuals. The proposed Class definition is: All individuals who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home in Alabama.

118. Plaintiffs Doe #1 and Doe #2 further request that the Court certify a Latino Subclass with the following definition: All Latinos who (1) reside in Alabama; (2) will be unable to prove U.S. citizenship or lawful immigration status under HB 56 Section 30(c); and (3) own, maintain, or keep a manufactured home.

119. This action is properly maintained as a class action because:

(a) Joinder of all members of the Class and Latino Subclass is impracticable because of the size of the Class and Subclass.

(i) The Class comprises more than 40 households.

(ii) The Latino Subclass comprises more than 40 households.

(b) The claims alleged on behalf of the Class and Latino Subclass raise questions of law and fact that are common to the Class and Subclass.

(i) All Class members will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.

- (ii) The members of the Latino Subclass are of the same race and national origin. The enforcement of Section 30 of HB 56 is intentionally targeted at members of the Subclass because of their Latino race and national origin, and it will have a disproportionate adverse impact on members of the Subclass.
- (c) The claims of the Class representatives are typical of the Class and Subclass.
- (i) Like the members of the Class, Plaintiffs Doe #1 and Doe #2 will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution.
 - (ii) Like the members of the Latino Subclass, Plaintiffs Doe #1 and Doe #2 are Latinos who will be unable to apply for a renewal tag and will be subject to the same fines, penalties, and threat of criminal prosecution, due to the discriminatory intent and effect of Defendants' enforcement of Section 30 of HB 56, on grounds of Subclass members' Latino race and national origin.
- (d) The Class and Latino Subclass representatives and Class counsel will fairly and adequately represent the interests of the Class and Subclass. The Class and Latino Subclass representatives have no interests that are antagonistic to the interests of other Plaintiffs, and Class counsel have substantial experience in civil rights and class action litigation.

120. Class-wide declaratory and injunctive relief is appropriate for the Class because Defendants have acted or refuse to act on grounds generally applicable to the Class as a whole.

Defendants have applied and will apply the same policy, custom, and/or practice to all Class members.

121. Class-wide declaratory and injunctive relief is appropriate for the Latino Subclass because Defendants have acted or refuse to act on grounds generally applicable to the Subclass as a whole. Defendants have applied and will apply the same policy, custom, and/or practice to all Latino Subclass members.

122. There are questions of law or fact common to all of the members of the Class and Latino Subclass that predominate over any questions affecting only individuals and a class action is superior to other methods for a fair and efficient adjudication of the controversy. Common questions of law or fact predominate and the controversy is most fairly and efficiently adjudicated via class action because all Class and Latino Subclass members will be subject to the same fines, penalties, and threat of criminal prosecution for the same conduct.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

For Injunctive and Declaratory Relief under the Fair Housing Act, 42 U.S.C. § 3604(a) Against All Defendants

On Behalf of All Named Plaintiffs and the Latino Subclass

123. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

124. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, maintains, or keeps a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

125. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make registration payments and apply for a manufactured home decal or a moving permit.

126. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits to Plaintiffs Doe #1, Doe #2 and the Latino Subclass will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Injunctive and Declaratory Relief Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of All Named Plaintiffs and the Latino Subclass

127. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-115, 118-119, and 121-122 above.

128. Section 40-12-255 of the Alabama Code requires anyone who owns, maintains, or keeps a manufactured home to obtain a decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

129. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2, and members of the Latino Subclass, to make an annual registration fee payment or apply for a manufactured home decal or a moving permit.

130. Defendants' enforcement of Section 30 of HB 56 against Plaintiffs Doe #1, Doe #2, and the Latino Subclass by refusing to accept their annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing occupied by Latino Subclass members, because of their race and national origin, in violation of 42 U.S.C. § 3604(b).

THIRD CAUSE OF ACTION
For Injunctive and Declaratory Relief Under U.S. Const., Art. VI, cl. 2
Against All Defendants
On Behalf of All Named Plaintiffs and the Class

131. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 35-69, 79-92, 97-115, 117, 119-120, and 122 above.

132. The Supremacy Clause, Article VI, Section 2, of the U.S. Constitution provides:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

133. The Supremacy Clause mandates that federal law preempts state law in any area over which Congress expressly or impliedly has reserved exclusive authority or which is constitutionally reserved to the federal government, or where state law conflicts or interferes with federal law.

134. Section 30 of HB 56 makes it a crime for certain non-citizens, including Plaintiffs Doe #1, Doe #2, and members of the Class, to make an annual registration payment or apply for a manufactured home decal or moving permit.

135. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns or maintains a manufactured home to obtain a decal by or before November 30 of each year.

136. The inability to obtain a decal will make housing unavailable to Plaintiffs Doe #1, Doe #2, and members of the Class.

137. Section 30 of HB 56 regulates the terms and conditions under which non-U.S. citizens may remain in Alabama.

138. Section 30 is an impermissible state regulation of immigration, and therefore usurps powers constitutionally vested in the federal government exclusively.

139. Section 30 also conflicts with federal laws, regulations, and policies; attempts to legislate in a field occupied by the federal government; imposes burdens and penalties on legal residents not authorized by and contrary to federal law, and unilaterally imposes burdens on the federal government's resources and processes, each in violation of the Supremacy Clause.

140. Plaintiffs move for relief on this claim directly under the Constitution and also under 42 U.S.C. § 1983.

FOURTH CAUSE OF ACTION
For Injunctive and Declaratory Relief Under 42 U.S.C. § 1983 and
U.S. Const., Amend. XIV § 1, cl. 3
Against All Defendants
On Behalf of Plaintiff Doe #1, Plaintiff Doe #2, and the Class

141. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-54, 70-78, and 97-108, 117, 119-120, and 122 above.

142. Defendants' enforcement of Section 30 of HB 56 prohibits Plaintiffs Doe #1, Doe #2, and the Class from complying with the requirements under Alabama Code Section 40-12-255 to pay an annual registration fee and to obtain and prominently display a current manufactured home identification decal. Without a current identification decal, Plaintiffs Doe #1, Doe #2, and the Class will be subject to the penalties established in Alabama Code Section 40-12-255(a) and (k).

143. Defendants' enforcement of Section 30 of HB 56 will force Plaintiffs Doe #1, Doe #2, and the Class to abandon their housing and permanently forfeit their manufactured homes, because they cannot come into compliance with Alabama Code Section 40-12-255(a) or (j).

144. Under Section 27 of HB 56, the individual Plaintiffs and the Class will be unable to sell their homes before abandoning and forfeiting them.

145. Defendants' enforcement of HB 56 Section 30 against Plaintiffs Doe #1, Doe #2, and the Class has deprived and/or will deprive them of their property without substantive due process, in violation the Due Process Clause of the Fourteenth Amendment.

146. Defendants' enforcement of HB 56 Section 30 is pursuant to their official capacities as state actors under color of law and is therefore actionable under the Fourteenth Amendment through 42 U.S.C. § 1983.

FIFTH CAUSE OF ACTION
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(a)
Against All Defendants
On Behalf of All Named Plaintiffs

147. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

148. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

149. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1, Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

150. Defendants' enforcement of Section 30 of HB 56 by rejecting registration payments from and denying decals and moving permits will make housing unavailable on the bases of race and national origin, in violation of 42 U.S.C. § 3604(a).

151. Defendants' violations of 42 U.S.C. § 3604(a) have caused and will continue to cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to compensatory damages under 42 U.S.C. § 3613(c).

SIXTH CAUSE OF ACTION AGAINST ALL DEFENDANTS
For Damages Under the Fair Housing Act, 42 U.S.C. § 3604(b)
Against All Defendants
On Behalf of the Named Plaintiffs

152. Plaintiffs reallege and incorporate by reference the allegations set forth in Paragraphs 29-34, 55-78, 93-96, and 97-115 above.

153. Alabama law, specifically Section 40-12-255 of the Alabama Code, requires anyone who owns, keeps, or otherwise maintains a manufactured home to obtain an identification decal by or before November 30 of each year, and imposes strict civil and criminal penalties, fines, and the threat of criminal prosecution for failure to comply.

154. Section 30 of HB 56 makes it a crime for certain persons, including Plaintiffs Doe #1 and Doe #2 to make registration payments and apply for a manufactured home decal or a moving permit.

155. Defendants' enforcement of Section 30 of HB 56 by refusing to accept annual registration payments or issue current identification decals or moving permits applies different terms and conditions in the provision of services related to housing on the basis of race and national origin, in violation of 42 U.S.C. § 3604(b).

156. Defendants' violations of 42 U.S.C. § 3604(b) have caused and will cause the named Plaintiffs to suffer compensable injuries, entitling the named Plaintiffs to damages under 42 U.S.C. § 3613(c).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that the Court grant the following relief:

(1) Issue a temporary restraining order and preliminary injunction immediately enjoining the enforcement of HB 56 Section 30 statewide against Plaintiffs and the Class and Latino Subclass;

(2) Order Defendant Magee to immediately notify all county officials who are responsible for enforcing the manufactured home registration requirements of Section 40-12-255 of the Alabama Code if said temporary restraining order and preliminary injunction is entered;

(3) Certify the Class and Subclass;

(4) Enter a declaratory judgment finding that Defendants' enforcement of HB 56 Section 30 violates the Fair Housing Act, 42 U.S.C. § 3604(a) and (b); the Supremacy Clause of Article VI of the U.S. Constitution; the Due Process Clause of Amendment XIV of the U.S. Constitution; and 42 U.S.C. § 1983.

(5) Enter a permanent injunction enjoining Defendants from enforcing Section 30 of HB 56;

(6) Award compensatory damages to Plaintiffs Doe #1, Doe #2, CAFHC, FHCNA, and CFH for their claims for damages under 42 U.S.C. § 3604(a) and (b);

(7) Award Plaintiffs their reasonable attorneys' fees and costs pursuant to 42 U.S.C. §§ 1988 and 3613(c)(2); and

(8) Order such other relief as this Court deems just and equitable.

Dated: November 18, 2011

Respectfully submitted,

s/ Mary Bauer

Mary Bauer

On Behalf of Counsel for Plaintiffs

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