

**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 No.

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, Center for Fair Housing, Inc., Doe #1, and Doe #2, on behalf of themselves, and Doe #1 and Doe #2 on behalf of the Manufactured Home Class and Latino Subclass, hereby submit this motion for temporary restraining order and preliminary injunction pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. Through this Motion, Plaintiffs seek an immediate order directing Defendants Julie Magee and Michael Harper to refrain from enforcing Section 30 of the Beason-Hammon Alabama Taxpayer and Citizen Protection Act, 2011 Ala. Acts 535 (“HB 56”) as it applies to Alabama Code Section 40-12-255.

Plaintiffs require temporary injunctive relief before November 30, 2011. If Defendants are not enjoined before November 30, 2011, Plaintiffs Doe #1, Doe #2, and the Class will face the immediate risk of fines, penalties, and criminal prosecution because they will be unable to comply with the requirements of Alabama Code Section 40-12-255, which requires them to obtain and display annual identification decals for their manufactured homes. Plaintiffs Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc. will similarly continue to suffer irreparable harm if they are forced to continue diverting scarce resources away from other programs in order to respond to this crisis.

As detailed in Plaintiffs' accompanying Memorandum, if a temporary restraining order and preliminary injunction do not issue, Plaintiffs and the proposed Class will suffer irreparable injury, including the immediate loss of housing. Plaintiffs are likely to prevail on the merits of their claims that Defendants' conduct violates the Fair Housing Act, 42 U.S.C. § 3604(a) and (b), and the Supremacy Clause of the U.S. Constitution. The threatened injury to Plaintiffs and the Class outweighs whatever damage a temporary injunction may cause the Defendants; and the injunction would not be adverse to the public interest.

Plaintiffs are filing this Motion concurrently with their Complaint, Plaintiffs Doe #1 and Doe #2's Motion for Class Certification, and Doe Plaintiffs' Motion for Leave to Proceed Under Pseudonyms. Plaintiffs' counsel will arrange for hand delivery on November 18, 2011, of each of these pleadings on Defendants and on Alabama Attorney General Luther Strange.

The issuance of a temporary restraining order without a hearing is appropriate pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure. As shown in the accompanying declarations from Plaintiffs Doe #1, Doe #2, Central Alabama Fair Housing Center, Fair Housing Center of Northern Alabama, and Center for Fair Housing, Inc., immediate and irreparable harm

will result to all Plaintiffs in the absence of an injunction enjoining Defendants from enforcing Section 30 of HB 56 by refusing to issue manufactured home identification decals to Plaintiffs Doe #1, Doe #2, and the Class. Fed. R. Civ. P. 65(b)(1)(A). Although not required for immediate *ex parte* relief under Rule 65(b)(1), Defendants will be notified by hand delivery of the filing of this action and Motion on November 18, 2011. Fed. R. Civ. P. 65(b)(1)(B).

In the event that the Court determines a hearing is necessary before ruling on Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, Plaintiffs request that the Court schedule the hearing as promptly as possible, and sufficiently in advance of the November 30, 2011, deadline established by Alabama Code Section 40-12-255(a) in order for Plaintiffs Doe #1, Doe #2, and the Class to comply with their obligations under this statute should the Court granted the requested relief by enjoining Defendants' enforcement of Section 30 of HB 56.

For the foregoing reasons, and as set forth in the accompanying Memorandum, this Motion for Temporary Restraining Order and Preliminary Injunction should be granted.

Dated: November 18, 2011

Respectfully submitted,

s/ Samuel Brooke
Samuel Brooke
On Behalf of Counsel for Plaintiffs

Kristi L. Graunke*
SOUTHERN POVERTY LAW CENTER
233 Peachtree St. NE, Suite 2150
Atlanta, GA 30303
(404) 521-6700
kristi.graunke@splcenter.org

Mary Bauer (ASB-1181-R76B)
Samuel Brooke (ASB-1172-L60B)
SOUTHERN POVERTY LAW CENTER
4100 Washington Ave.
Montgomery, AL 36104
(334) 956-8200
mary.bauer@splcenter.org
samuel.brooke@splcenter.org

Linton Joaquin*
Karen C. Tumlin*
NATIONAL IMMIGRATION LAW CENTER
3435 Wilshire Blvd.
Suite 2850
Los Angeles, CA 90010
(213) 674-2909
joaquin@nilc.org
tumlin@nilc.org

Justin B. Cox*
ACLU IMMIGRANTS' RIGHTS PROJECT
230 Peachtree Street, NW, Suite 1440
Atlanta, GA 30303-2721
(404) 523-2721
jcox@aclu.org

Foster S. Maer*
Diana S. Sen*
LATINOJUSTICE PRLDEF
99 Hudson St., 14th Floor
New York, New York 10013
(212) 219-3360
fmaer@latinojustice.org
dsen@latinojustice.org

Stephen M. Dane*
Jamie L. Crook*
RELMAN, DANE & COLFAX PLLC
1225 19th Street NW, Suite 600
Washington, DC 20036
(202) 728-1888
sdane@relmanlaw.com
jcrook@relmanlaw.com

Lee Gelernt*
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad Street, 18th Floor
New York, New York 10004
(212) 549-2660
lgelernt@aclu.org

Counsel for Plaintiffs

* *Pro hac vice* admission to be sought

CERTIFICATE OF SERVICE

I hereby certify that arrangements have been made to, on this date, deliver a true and correct copy of the foregoing by hand delivery to the following parties, at the below addresses:

Julie P. Magee
State Revenue Commissioner
50 North Ripley Street
Montgomery, Alabama 36132

William M. "Mike" Harper
Elmore County Revenue Commissioner
100 E. Commerce Street, Room 107
P.O. Box 1147
Wetumpka, Alabama 36092

I further certify that arrangements have been made to, on this date, deliver a true and correct courtesy copy of the foregoing by hand delivery to the State Attorney General, at the below addresses:

Attorney General Luther Strange
Office of the Attorney General, State of Alabama
501 Washington Ave.
Montgomery, AL 36104

I so certify this 18th day of November, 2011.

s/ Samuel Brooke
Samuel Brooke