
**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

Nos. 11-14532-CC and No. 11-14674-CC

**UNITED STATES,
*Plaintiff-Appellant,***
v.
**STATE OF ALABAMA, ET AL.,
*Defendants-Appellees.***

Nos. 11-14535-CC and 11-14675-CC

**HISPANIC INTEREST COALITION OF ALABAMA, ET AL.
*Plaintiff-Appellant,***
v.
**ROBERT BENTLEY, ET AL.,
*Defendants-Appellees.***

**On Appeal from the United States District Court
for the Northern District of Alabama
Case Nos. 5:11-cv-02484-SLB & 2:11-cv-2746-SLB**

**OPPOSED MOTION TO PARTIALLY VACATE
INJUNCTION PENDING APPEAL**

R. Cooper Shattuck
Legal Advisor to the Governor
OFFICE OF GOVERNOR OF ALABAMA
Legal Office, N103
600 Dexter Avenue
Montgomery, AL 36130
Telephone: (334) 242-7120
Counsel for Governor Bentley

Luther Strange
Attorney General
John C. Neiman, Jr.
Solicitor General
Elizabeth Prim Escalona
Deputy Solicitor General
OFFICE OF THE ATTORNEY GENERAL
501 Washington Avenue
Montgomery, Alabama 36130-0152
Telephone: (334) 242-7300
Facsimile: (334) 353-8440
Attorneys for Appellees

May 24, 2012

**Certificate of Interested Persons in *HICA v. Bentley*,
Nos. 11-14535-CC & 11-14675-CC**

Pursuant to 11th Cir. Rule 26.1-1, counsel for Appellees/Cross-Appellants
certify that the following have an interest in the outcome of this appeal:

9 to 5, National Association of Working Women, *Amicus Curiae*

Abutryn, Russell R.

Aids Action Coalition

Alabama Appleseed

Alabama Coalition Against Domestic Violence (ACADV), *Amicus Curiae*

Alabama Council on Human Relations, *Amicus Curiae*

Alabama Education Association (AEA), *Amicus Curiae*

Alabama Fair Housing Center, et al., *Amicus Curiae*

Alabama New South Coalition, *Amicus Curiae*

Alabama NOW, *Amicus Curiae*

Alabama State Conference of the National Association for the Advancement of
Colored People (NAACP), *Amicus Curiae*

Alianza Latina en contra de la Agresión Sexual (ALAS), *Amicus Curiae*

American Civil Liberties Union Foundation

American Civil Liberties Union Foundation Immigrants' Rights Project

American Friends Service Committee, *Amicus Curiae*

American Immigration Lawyers Association, *Amicus Curiae*

American Jewish Committee, *Amicus Curiae*

Anti-Defamation League, *Amicus Curiae*

Argentine Republic, *Amicus Curiae*

Arizona Coalition Against Domestic Violence, *Amicus Curiae*

Arnold & Porter, LLP

Arte Sana, *Amicus Curiae*

Artrip, Eric J.

Asian American Justice Center, Member of the Asian American Center for
Advancing Justice

Asian American Legal Defense and Education Fund, *Amicus Curiae*

Asian Law Caucus

Asian Pacific American Labor Alliance, *Amicus Curiae*

ASISTA Immigration Assistance, *Amicus Curiae*

Baca, Congressman Joe, *Amicus Curiae*

Badrinath, Vikram K.

Barber, Robert

Barkey, David L.

Barr, Mark R.

Baskin, Stuart J.

Bauer Tedrow, Klari

Bauer, Mary

Becerra, Congressman Xavier, *Amicus Curiae*

Beck, Jeff

Benach, Andres

Bensinger, Deborah

Bentley, Robert, Governor of the State of Alabama

Birmingham Peace Project, *Amicus Curiae*

Black Romero, Juan Pablo

Blackburn, Sharon L.

Blacksher, James U.

Blair, Jamie

Blatt, Lisa S.

Boat People SOS

Bradley Arant Boult Cummings, LLP

Break the Chain Campaign, *Amicus Curiae*

Broder, Tanya

Brooke, Samuel

Brooks, J.R.

Brooks, Taylor P.

Broussard, Robert L.

Bruner, Ben

Bui, Thy B.

California Women's Law Center, *Amicus Curiae*

Cardoza, Congressman Dennis, *Amicus Curiae*

Casa de Esperanza (Minnesota), *Amicus Curiae*

Case de Maryland, Inc., *Amicus Curiae*

Ceja Zamora, Maria D.

Central Alabama Fair Housing Center, *Amicus Curiae*

Central American Resource Center, *Amicus Curiae*

Cheer, Shiu-Ming

Chicago Alliance Against Sexual Exploitation (CAASE), *Amicus Curiae*

Choudhury, Anjan

Chu, Congresswoman Judy, *Amicus Curiae*

Clark, Christopher

Clarke, Congresswoman Yvette, *Amicus Curiae*

Coalition of Labor Union Women, *Amicus Curiae*

Coalition to Abolish Slavery & Trafficking (CAST), *Amicus Curiae*

Colfax, Reed N.

Colorado Coalition Against Domestic Violence, *Amicus Curiae*

Colyer, Jennifer L.

Connecticut Sexual Assault Crisis Services, Inc., *Amicus Curiae*

Conyers, Jr., Congressman John, *Amicus Curiae*

Costa, Congressman Jim, *Amicus Curiae*

Counsel of Mexican Federations in North America/Consejo de Federaciones

Mexicans en Norteamericana, *Amicus Curiae*

Craven, Larry E.

Crook, Jamie L.

Crowell & Moring, LLP

Cummings, Michelle

Dale M. Schwartz & Associates, LLP

Dane, Stephen M.

Davis, James W.

Dayton, Bryan

De Leeuw, Michael B.

Desormeau, Katherine

Deutch, Congressman Ted, *Amicus Curiae*

DLA Piper, LLP

Dockery, J. Michael

Dominican American National Roundtable, *Amicus Curiae*

DreamActivist.org

Eagle Forum Education & Legal Defense Fund, *Amicus Curiae*

Ellison, Congressman Keith, *Amicus Curiae*

Equal Justice Society, *Amicus Curiae*

Equality Alabama, *Amicus Curiae*

Escalona, Elizabeth Prim

Eshoo, Congresswoman Anna, *Amicus Curiae*

Fair Housing Center of North Alabama, *Amicus Curiae*

Fairbanks, Misty

Family Values @ Work Consortium, *Amicus Curiae*

Federation of Southern Cooperatives/Land Assistance Fund, *Amicus Curiae*

Federative Republic of Brazil, *Amicus Curiae*

Fleischmann, Stuart

Fleming, Margaret L.

Freedom Network USA, *Amicus Curiae*

Freeman, Steven M.

Fried, Frank, Harris, Shriver & Jacobson, LLP

Fuller, Randy

Gardner, J. Cecil

Gehring Flores, Gaela K.

Gelernt, Lee

Georgia Coalition Against Domestic Violence, *Amicus Curiae*

Gespass & Johnson

Gespass, David

Gianola, John F.

Gillespie, Katherine A.

Global Justice Ecology Project, *Amicus Curiae*

Gomez, Martha L.

Gonzalez, Congressman Charles, *Amicus Curiae*

Gorniak, Carla

Gossai, Amanda D.

Graunke, Kristi L.

Greater Birmingham Ministries

Green, Congressman Al, *Amicus Curiae*

Grijalva, Congressman Raúl, *Amicus Curiae*

Hahn, Congresswoman Janice, *Amicus Curiae*

Haile, Esayas

Hall, Christopher P.

Hawaii State Coalition Against Domestic Violence, *Amicus Curiae*

Hill, Frieda

Hinojosa, Congressman Rubén, *Amicus Curiae*

Hispanic Association of Colleges & Universities (HACU), *Amicus Curiae*

Hispanic College Fund (HCF), *Amicus Curiae*

Hispanic Federation, *Amicus Curiae*

Hispanic Interest Coalition of Alabama

HIV Law Project, *Amicus Curiae*

Honda, Congressman Mike, *Amicus Curiae*

Hoyer, Congressman Steny, *Amicus Curiae*

Huntsville International Help Center

Immigration Equality, *Amicus Curiae*

Interpreters and Translators Association of Alabama

Iowa Coalition Against Sexual Assault (IowaCASA), *Amicus Curiae*

Jackson, Jr., Congressman Jesse L., *Amicus Curiae*

Jadwat, Omar C.

Jane Doe # 1

Jane Doe # 2

Jane Doe # 3

Jane Doe # 4

Jane Doe # 5

Jane Doe # 6

Jimmerson, Ellin

Joaquin, Linton

John Doe # 1

John Doe # 2

John Doe # 3

John Doe # 4

John Doe # 5

John Doe # 6

Joseph, Lawrence J.

Karp, Jessica

Keaney, Melissa S.

Kelly, Nancy, *Amicus Curiae*

Kentucky Coalition for Immigrant and Refugee Rights, *Amicus Curiae*

Kershaw, Derek

Lambda Legal Defense and Education Fund, Inc., *Amicus Curiae*

Langham, Jeffery E.

Lanier Ford Shaver & Payne, P.C.

Lapointe, Michelle R.

LatinoJustice PRLDEF

LatinoJustice, *Amicus Curiae*

Lawyers' Committee for Civil Rights Under the Law, *Amicus Curiae*

League of United Latin American Citizens (LULAC), *Amicus Curiae*

Legal Momentum, *Amicus Curiae*

Ling, Sin Yen

Local 1657 United Food and Commercial Workers International Union

Lofgren, Congressman Zoe, *Amicus Curiae*

Long, Pamela

Lustbader, Sarah

Maer, Foster S.

Maloney, Congresswoman Carolyn, *Amicus Curiae*

Mandelstam, Michael

Markowitz, Erica

McDermott, Congressman Jim, *Amicus Curiae*

McKinney, Rebekah Keith

McMahan, Michael P.

Meeks, Congressman Gregory, *Amicus Curiae*

Mexican American Legal Defense and Educational Fund

Mittal, Vivek

Molina García, Bonard I.

Moore, Congresswoman Gwen, *Amicus Curiae*

Moran, Congressman Jim, *Amicus Curiae*

Mukherjee, Elora

Munger, Tolles & Olson, LLP

Multicultural Education, Training & Advocacy, Inc. (META, Inc.), *Amicus Curiae*

NAFSA: Association of International Educators (NAFSA)

Napolitano, Congresswoman Grace, *Amicus Curiae*

National Asian Pacific American Women's Forum, *Amicus Curiae*

National Association for Chicana and Chicano Studies, *Amicus Curiae*

National Association of Criminal Defense Lawyers (NACDL), *Amicus Curiae*

National Association of Latino Elected and Appointed Officials, *Amicus Curiae*

National Association of Social Workers and the Alabama Chapter of NASW,

Amicus Curiae

National Coalition Against Domestic Violence, *Amicus Curiae*

National Council of Jewish Women, *Amicus Curiae*

National Council of La Raza, *Amicus Curiae*

National Day Laborer Organizing Network

National Dominican American Council, *Amicus Curiae*

National Economic and Social Rights Initiative, *Amicus Curiae*

National Education Association (NEA), *Amicus Curiae*

National Employment Law Project, *Amicus Curiae*

National Guest Worker Alliance, *Amicus Curiae*

National Immigration Law Center

National Immigration Project of the National Lawyers Guild, *Amicus Curiae*

National Latina Institute for Reproductive Health; National Women's Law Center,
Amicus Curiae

National Lawyers Guild, *Amicus Curiae*

National School Boards Association, *Amicus Curiae*

Neal, Allison

Neiman, Jr., John C.

Nevada Network Against Domestic Violence, *Amicus Curiae*

New Mexico Coalition of Sexual Assault Programs, Inc., *Amicus Curiae*

New Orleans Workers' Center for Racial Justice, *Amicus Curiae*

Newman, Chris

Norton, Congresswoman Eleanor Holmes, *Amicus Curiae*

O'Brien, Alice

Oakes, Brian

Oshiro, Erin E.

Park, Jr., John J.

Parker, Jr., William G.

Partners in Health/Zanmi Lasante, *Amicus Curiae*

Payne, Joshua Kerry

Pedersen, Amy

Perales, Nina

Perez-Vargas, Miguel A.

Phillips, Ann Marie

Phillips, Gregory D.

Pierluisi, Congressman Pedro, *Amicus Curiae*

Plurinational State of Bolivia, *Amicus Curiae*

Polis, Congressman Jared, *Amicus Curiae*

Progressive Jewish Alliance and Jewish Funds for Justice, *Amicus Curiae*

Quigley, Congressman Mike, *Amicus Curiae*

Raksha, *Amicus Curiae*

Rangel, Congressman Charles, *Amicus Curiae*

Reichmuth, Tracy E.

Relman, Dane & Colfax, PLLC

Republic of Chile, *Amicus Curiae*

Republic of Colombia, *Amicus Curiae*

Republic of Costa Rica, *Amicus Curiae*

Republic of Ecuador, *Amicus Curiae*

Republic of El Salvador, *Amicus Curiae*

Republic of Guatemala, *Amicus Curiae*

Republic of Honduras, *Amicus Curiae*

Republic of Nicaragua, *Amicus Curiae*

Republic of Paraguay, *Amicus Curiae*

Republic of Peru, *Amicus Curiae*

Republic of Uruguay, *Amicus Curiae*

Reyes, Congressman Silvestre, *Amicus Curiae*

Rice, Roger

Rice, Steven P.

Roberti, John

Roybal-Allard, Congresswoman Lucille, *Amicus Curiae*

Rubio Law Firm, P.C.

Rubio, Freddy

Sablan, Congressman Gregorio, *Amicus Curiae*

Samuel, Don

Schakowsky, Congresswoman Janice, *Amicus Curiae*

Schoen, David I.

Schwartz, Dale M

Schwartz, Robert A.

Schwarz, Ghita

Segura, Andre

Sen, Diana S.

Serrano, Congressman José, *Amicus Curiae*

Service Employees International Union

Sewell, Congresswoman Terri, *Amicus Curiae*

Shah, Jeena

Shearman & Sterling, LLP

Sheinburg, Steven C.

Shin, Susan L.

Sikh American Legal Defense & Education Fund, *Amicus Curiae*

Simpson, Michael D.

Sinclair, Winfield J.

Sires, Congressman Albio, *Amicus Curiae*

Skinner, Jonathan

Skinner, Jonathan P.

Smith, Deborah S.

Soares, Karen M

Society of American Law Teachers, *Amicus Curiae*

Solano, Henry L.

South Alabama Center for Fair Housing, *Amicus Curiae*

South Asian Americans Leading Together, *Amicus Curiae*

Southern Christian Leadership Conference, *Amicus Curiae*

Southern Coalition for Social Justice, *Amicus Curiae*

Southern Poverty Law Center

Southern Regional Joint Board of Workers United

Spears, G. Brian

Spina, Thomas J.

Still, Edward

Strange, Luther, Attorney General of the State of Alabama

Strickland, Brockington, Lewis, LLP

Sugarman, Kenneth J.

Sweeney, Jr., Donald B.

Tan, Michael K. T.

Tedrow, Klari B.

Tesfamariam, Fiseha

Thau, Christopher Barton

The Anti-Defamation League, *Amicus Curiae*

The Bruner Law Firm

The Dominican Republic, *Amicus Curiae*

The Gardner Firm, P.C.

The Global Initiative for Economic, Social and Cultural Rights, *Amicus Curiae*

The Global Justice Clinic at New York University School of Law, *Amicus Curiae*

The Montgomery Improvement Association, *Amicus Curiae*

The National Asian-Pacific American Bar Association, *Amicus Curiae*

The National Association of Latino Elected Appointed Officials, *Amicus Curiae*

The National Fair Housing Alliance, *Amicus Curiae*

The National Immigration Law Project of the National Lawyers Guild, *Amicus Curiae*

The New Orleans Workers' Center for Racial Justice, *Amicus Curiae*

The New York City Bar Association, *Amicus Curiae*

The Unitarian Universalist Service Committee, *Amicus Curiae*

The United States Hispanic Leadership Institute, *Amicus Curiae*

Thompson, Barbara W.

Tsu, Naomi

Tumlin, Karen C.

Turner, Andrew H.

United Food and Commercial Workers International Union

United States of México, *Amicus Curiae*

University of Cincinnati College of Law Domestic Violence and Civil Protection
Order Clinic, *Amicus Curiae*

Upton, Daniel

Velázquez, Congresswoman Nydia, *Amicus Curiae*

Vermont Network Against Domestic and Sexual Violence, *Amicus Curiae*

Victim Rights Law Center, *Amicus Curiae*

Viramontes, Victor

Voces de la Frontera, *Amicus Curiae*

Von Sternberg, Mark

Wang, Cecillia D.

Warkynski, E. Casey

Warren, Charles D.

Washington Empowered Against Violence (WEAVE), *Amicus Curiae*

Watson, Jr., Herman

Watson, McKinney & Artrip, LLP

Webster, Matt

Weddle, Brandie N.

Weinberg, Jacobs & Tolani, LLP

Werner, Daniel

West Virginia Coalition Against Domestic Violence, *Amicus Curiae*

Windrose, LLP

Wisconsin Coalition Against Domestic Violence, *Amicus Curiae*

Wisconsin Coalition Against Sexual Assault, *Amicus Curiae*

Zall, Barnaby W.

**Certificate of Interested Persons in *United States v. Alabama*,
Nos. 11-14532-CC & 11-14674-CC**

Pursuant to 11th Cir. Rule 26.1-1, counsel for Appellees/Cross-Appellants
certify that the following have an interest in the outcome of this appeal:

AALDEF

Abate, Michael P.

ACHR

Alabama

Alabama Coalition Against Domestic Violence

Alabama Education Association

Alabama Immigration Lawyers Association

Alabama Legislators

Alabama NOW

Alabama Unity Legal Defense Fund

Albin, Ramona C.

American Center for Law and Justice

American Freedom Law Center

American Immigration Lawyers Association

American Unity Legal Defense Fund

Anti-Defamation League

Argentina

Arizona

Baca, Congressman Joe

Becerra, Congressman Xavier

Bentley, Robert J.

Birmingham Peace Project

Blackburn, Sharon Lovelace

Blacksher, James U.

Bolivia

Bondi, Pamela, Attorney General of Florida

Brazil

Brinkmann, Beth S.

Bruning, Jon, Attorney General of Nebraska

Bursch, John J.

Cardoza, Congressman Dennis

Central Alabama Fair Housing Center

Chilakamarri, Varu

Chile

Chu, Congresswoman Judy

Clark, Christopher R.

Clarke, Congresswoman Yvette

Colfax, Reed N.

Colombia

Colyer, Jennifer L.

Conyers, Jr., Congressman John

Costa Rica

Costa, Congressman Jim

Crook, Jamie L.

Dane, Stephen M.

Davis, James W.

De Leeuw, Michael B.

Deutch, Congressman Ted

Dewey & LeBoeuf, LLP

Dominican American National Roundtable

Dominican Republic

Ecuador

El Salvador

Ellison, Congressman Keith

Equality Alabama

Escalona, Elizabeth Prim

Eshoo, Congresswoman Anna

Fair Housing Center of Northern Alabama

Fairbanks, Misty S.

Federation of Southern Cooperatives/Land Assistance Fund

Fleming, Margaret L.

Florida

Fried, Frank, Harris, Shriver & Jacobson, LLP

Gardner, J. Cecil

Georgia

Gespass, David

Gonzalez, Congressman Charles

Gorniak, Carla

Green, Congressman Al

Grijalva, Congressman Raúl

Guatemala

Hahn, Congresswoman Janice

Hinojosa, Congressman Rubén

Hispanic Association of Colleges and Universities (HACU)

Hispanic Federation

Honda, Congressman Mike

Honduras

Horne, Thomas, Attorney General of Arizona

Hoyer, Congressman Steny

Hutchison, Richard Peter

Idaho

Immigration Equality

Jackson, Jr., Congressman Jesse L.

Kansas

Krishna, Praveen

Landmark Legal Foundation

Lawyers Committee for Civil Rights Under Law

Lofgren, Congressman Zoe

Long & McDonald, LLC

Luisi, Daniel M.

Maloney, Congresswoman Carolyn

Mandelstam, Michael

Markowitz, Erica

McDermott, Congressman Jim

Meeks, Congressman Gregory

Mersino, Erin Elizabeth

Michigan

Multicultural Education, Training & Advocacy, Inc. (META, Inc.)

Montgomery Improvement Association

Moore, Congresswoman Gwen

Moran, Congressman Jim

Muise, Robert Joseph

NAACP Alabama Conference

Napolitano, Congresswoman Grace

National Asian-Pacific Bar Association

National Association of Criminal Defense Lawyers

National Association of Latino Elected and Appointed Officials

National Council of La Raza

National Education Association

National Employment Law Project

National Fair Housing Alliance, Inc.

National Guestworker Alliance

National Immigration Law Project of the National Lawyers Guild

National Lawyers Guild

Nebraska

Neiman, Jr., John C.

New Orleans Workers Center for Racial Justice

New York City Bar Association

Nicaragua

Norton, Congresswoman Eleanor Holmes

Oklahoma

Olens, Samuel, Attorney General of Georgia

Orrick, III., William H.

Paraguay

Park, Jr., John J.

Parker, Jr., William G.

Payne, Joshua Kerry

Perez-Vargas, Miguel A.

Peru

Pierluisi, Congressman Pedro

Polis, Congressman Jared

Pruitt, E. Scott, Attorney General of Oklahoma

Quigley, Congressman Mike

Rangel, Congressman Charles

Reeves, II., C. Lee

Relman, Dane & Colfax PLLC

Reyes, Congressman Silvestre

Rice, Roger L.

Roybal-Allard, Congresswoman Lucille

Sablan, Congressman Gregorio

Sandberg, Jeffrey E.

Schakowsky, Congresswoman Janice

Schmidt, Derek, Attorney General of Kansas

Schoen, David I.

Schuett, Bill, Attorney General of Michigan

Schwartz, Dale M.

Serrano, Congressman José

Sewell, Congresswoman Terri

Shattuck, R. Cooper

Shultz, Benjamin M.

Sikh American Legal Defense and Education Fund

Sinclair, Winfield J.

Sires, Congressman Albio

Soares, Karen M

Society of American Law Teachers

Solano, Henry L.

South Carolina

Southern Christian Leadership Conference

Southern Coalition for Social Justice

Stern, Mark B.

Still, Edward

Strange, Luther

Strickland, Brockington, Lewis, LLP

Tenny, Daniel

Thomas More Law Center

United Mexican States

United States Hispanic Leadership Institute

United States of America

Uruguay

Vance, Joyce White

Velázquez, Congresswoman Nydia

Von Sternberg, Mark R.

Wasden, Lawrence, Attorney General of Idaho

Weinberg, Jacobs & Tolani, LLP

West, Tony

White, Edward Lawrence

Wilkenfeld, Joshua

Williams, Stephen W.

Wilson, Alan, Attorney General of South Carolina

Zall, Barnaby White

OPPOSED MOTION TO PARTIALLY VACATE THE INJUNCTION PENDING APPEAL

Appellees/Cross-Appellants State of Alabama, Governor Bentley, Attorney General Strange, Superintendent Bice, Interim Chancellor Price, and District Attorney Broussard (the “Appellees”) respectfully ask this Court to partially vacate the injunction pending appeal entered by the Court on March 8, 2012, as it applies to ALA. CODE §31-13-29 (HB56 §30). *See* FED. R. APP. P. 8, 27. The injunction pending appeal was in an order that listed both the docket number in *HICA v. Bentley*, No. 11-14535, and the docket number in *United States v. State of Alabama, et al.*, No. 11-14532. Appellees therefore have filed this motion in both cases.

1. On October 14, 2011, this Court enjoined pending appeal certain provisions of the Alabama Code addressing the problems caused by illegal immigration. On March 8, 2012, following oral argument, this Court modified its injunction pending appeal to enjoin two additional provisions: ALA. CODE §31-13-29 (HB56 §30) and §31-13-26 (HB56 §27).

2. At the time of the modified injunction, §31-13-29 prohibited state and local governments from entering into “business transactions” with persons the federal government determines to be unlawfully present, and made it a crime for those persons and persons acting on their behalf to enter into those transactions.

3. Although the Court did not provide the reasons for modifying the injunction, the Appellants had urged the Court to enjoin §31-13-29 because, among other arguments, they believed it was “deceptively broad” and applied to transactions beyond license transactions. *See HICA Blue Br. 42-43; HICA Yellow Br. 23; see also U.S. Blue Br. 40-42.* For instance, the HICA Appellants asserted that “Section 30 reaches into every aspect of everyday life for immigrants in Alabama, including, *inter alia*: water and sewage services; sanitation, garbage, and recycling services; housing and building occupancy licenses; obtaining a house number; recording a document or engaging in any activity in a probate office; obtaining an animal license; or any sort of business license or car tag, among other publicly provided services.” *HICA Blue Br. 42-43* (citations and footnotes omitted). According to the HICA Appellants, Section 30 went so far as to prohibit persons from “obtaining essential services from public utilities (like water or power).” *Id.* at 43.

4. Conversely, the District Court and Alabama Attorney General both had interpreted the provision as limited to licensing transactions, such as applying for or renewing a driver’s license or motor vehicle license plate, and the Appellees advanced this position before this Court. *See HICA Red Br. 31-32; U.S. Red Br. 41-43.* Appellants reiterated their broader interpretation at oral argument, and the

Court asked several questions about the validity of the District Court's and Alabama Attorney General's more limited interpretation.

5. The Alabama Legislature recently amended §31-13-29 to clarify that it reaches only license transactions. *See* HB 658/Act No. 2012-491 (signed by Governor Bentley on May 18, 2012), attached as Exh. A. Section 31-13-29 now eschews the "business transaction" language and specifies that it prohibits persons the federal government determines to be unlawfully present and persons acting on their behalf from entering into "public records transactions" with state and local governments. "Public records transactions" are limited to applying for or renewing: a driver's license or nondriver identification card, a motor vehicle license plate, a business license, a commercial license, and a professional license. The current law specifically excludes marriage licenses, "any transaction relating to housing . . . or the ownership of real property," tax payments, and "any other transaction."

6. As the Appellees explained in their briefs, federal law does not preempt state laws that withhold these sorts of licenses from unlawfully present aliens and make it a crime for persons to evade that prohibition. *See U.S. Red Br.* 43-46; *HICA Red Br.* 32-34. Because §31-13-29 now clearly applies to only license transactions, Appellants now have no likelihood of success on the merits of their preemption claim. *See Touchston v. McDermott*, 234 F.3d 1130, 1132 (11th Cir. 2000) ("For this Court to grant the extraordinary remedy of an injunction

pending appeal, the petitioners must show . . . a substantial likelihood that they will prevail on the merits of the appeal”). Absent such a showing, the injunction pending appeal is due to be vacated as to §31-13-29.

7. The balance of the equities also favors vacating the injunction against §31-13-29. The State has a strong interest in enforcing this validly-enacted statute. Such statutes “should be recognized and enforced by the courts as embodying the will of the people, unless they are plainly and palpably, beyond all question, in violation of the fundamental law of the Constitution.” *Atkin v. Kansas*, 191 U.S. 207, 223, 24 S. Ct. 124, 128 (1903). Indeed, “the public interests imperatively demand” this result. *Id.* For this reason, the harm which would result from a continued injunction barring enforcement of §31-13-29 tips in favor of the State Defendants and the public, both of whom have an interest in noninterference by a federal court in a State’s legislative enactments.

8. The Appellees have conferred with Appellants in both appeals about this motion. The Appellants oppose the motion and plan to file written oppositions.

The Appellees therefore respectfully ask this Court to partially vacate the injunction pending appeal as to ALA. CODE §31-13-29.

Respectfully submitted,

LUTHER STRANGE (ASB-0036-G42L)
Attorney General

BY:

s/ John C. Neiman, Jr.

John C. Neiman, Jr. (ASB-8093-O68N)
Solicitor General

Elizabeth Prim Formby Escalona (ASB-7447-H69F)
Deputy Solicitor General

OFFICE OF THE ALABAMA ATTORNEY GENERAL
501 Washington Avenue
Montgomery, Alabama 36130-0152
Telephone: 334.242.7300
Facsimile: 334.353.8440
jneiman@ago.state.al.us
pescalona@ago.state.al.us

Attorneys for the Appellees

OF COUNSEL:

R. Cooper Shattuck
LEGAL ADVISOR TO THE GOVERNOR
OFFICE OF GOVERNOR OF ALABAMA
Legal Office, N103
600 Dexter Avenue
Montgomery, AL 36130
(334) 242-7120
cooper.shattuck@governor.alabama.gov

Counsel for Governor Robert Bentley

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2012, I electronically filed the above and foregoing with the Clerk of the Court using the PACER/CM/ECF system, and served the following attorneys by electronic mail:

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

Michelle R. Lapointe
Kristi Graunke
Naomi Tsu
Daniel Werner
SOUTHERN POVERTY LAW CENTER
233 Peachtree St., NE, Suite 2150
Atlanta, Georgia 30303
T: (404) 521-6700
michelle.lapointe@splcenter.org
kristi.graunke@splcenter.org
naomi.tsu@splcenter.org
daniel.werner@splcenter.org

Sin Yen Ling
ASIAN LAW CAUCUS
55 Columbus Avenue
San Francisco, California 94111
T: (415) 896-1701 x 110
sinyenL@asianlawcaucus.org

Erin E. Oshiro
ASIAN AMERICAN JUSTICE CENTER,
MEMBER OF THE ASIAN AMERICAN
CENTER FOR ADVANCING JUSTICE
1140 Connecticut Ave., NW
Suite 1200
Washington, DC 20036
T: (202) 296-2300
eoshiro@advancingequality.org

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

G. Brian Spears
1126 Ponce de Leon Ave., N.E.
Atlanta, Georgia 30306
T: (404) 872-7086
bspears@mindspring.com

Chris Newman
Jessica Karp
NATIONAL DAY LABORER
ORGANIZING NETWORK
675 S. Park View St., Suite B
Los Angeles, California 90057
T: (213) 380-2785
newman@ndlon.org
jkarp@ndlon.org

Allison Neal (ASB 3377-I72N)
AMERICAN CIVIL LIBERTIES UNION
OF ALABAMA FOUNDATION
207 Montgomery St., Suite 910
Montgomery, Alabama 36104
T: (334) 265-2754 x 203
aneal@aclualabama.org

Freddy Rubio (ASB-5403-D62R)
Cooperating Attorney,
ACLU of ALABAMA FOUNDATION
RUBIO LAW FIRM, P.C.
438 Carr Avenue, Suite 1
Birmingham, Alabama 35209
T: 205-443-7858
frubio@rubiofirm.com

Ben Bruner (ASB-BRU-001)
THE BRUNER LAW FIRM
1904 Berryhill Road
Montgomery, Alabama 36117
T: (334) 201 0835
brunerlawfirm@gmail.com

Andre Segura
Elora Mukherjee
Omar C. Jadwat
Lee Gelernt
Michael K. T. Tan
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
125 Broad Street, 18th Floor
New York, New York 10004
T: (212) 549-2660
asegura@aclu.org
ojadwat@aclu.org
lgelernt@aclu.org
mtan@aclu.org
emukherjee@aclu.org

Cecillia D. Wang
Katherine Desormeau
Kenneth J. Sugarman
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION IMMIGRANTS' RIGHTS
PROJECT
39 Drumm Street
San Francisco, California 94111
T: (415) 343-0775
cwang@aclu.org
kdesormeau@aclu.org
irp_ks@aclu.org

Linton Joaquin
Karen C. Tumlin
Shiu-Ming Cheer
Melissa S. Keaney
NATIONAL IMMIGRATION LAW
CENTER
3435 Wilshire Boulevard, Suite 2850
Los Angeles, California 90010
T: (213) 639-3900
joaquin@nilc.org
tumlin@nilc.org
cheer@nilc.org
keaney@nilc.org

Tanya Broder
NATIONAL IMMIGRATION LAW
CENTER
405 14th Street, Suite 1400
Oakland, California 94612
T: (510) 663-8282
broder@nilc.org

Herman Watson, Jr. (ASB-6781-
O74H)
Eric J. Artrip (ASB-9673-I68E)
Rebekah Keith McKinney (ASB-
3137-T64J)
WATSON, MCKINNEY & ARTRIP, LLP
203 Greene Street
P.O. Box 18368
Huntsville, Alabama 35804
T: (256) 536-7423
watson@watsonmckinney.com
mckinney@watsonmckinney.com
artrip@watsonmckinney.com

Victor Viramontes
Martha L. Gomez
MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND
634 S. Spring Street, 11th Floor
Los Angeles, California 90014
T: (213) 629-2512 x 133
vviramontes@maldef.org
mgomez@maldef.org

Nina Perales
MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND
110 Broadway, Suite 300
San Antonio, Texas 78205
T: (210) 224-55476 x 206
nperales@maldef.org

Amy Pedersen
MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND
1016 16th Street NW, Suite 100
Washington, DC 20036
T: (202) 293-2828 x 12
apedersen@maldef.org

J.R. Brooks
Taylor P. Brooks
LANIER FORD SHAVER
& PAYNE, P.C.
P.O. Box 2087
Huntsville, AL 35804
jrb@lfsp.com
tpb@lanierford.com

Donald B. Sweeney, Jr.
BRADLEY ARANT BOULT
CUMMINGS, LLP
1819 5th Ave. N
Birmingham, AL 35203-2120
dsweeney@babco.com

Beth S. Brinkmann
Mark B. Stern
Michael P. Abate
Daniel Tenny
Jeffrey E. Sandberg
William H. Orrick, III
Benjamin M. Shulz
Tony West
UNITED STATES DEPARTMENT OF
JUSTICE
Civil Division, Room 7215
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001
beth.brinkmann@usdoj.gov
mark.stern@usdoj.gov
michael.abate@usdoj.gov
daniel.tenny@usdoj.gov
jeffrey.e.sandberg@usdoj.gov
benjamin.shulz@usdoj.gov

Varu Chilakamarri
Joshua Wilkinfeld
C. Lee Reeves, II
UNITED STATES DEPARTMENT OF
JUSTICE
Civil Division
20 Massachusetts Ave, NW
Washington, DC 20530
lee.reeves@usdoj.gov
varudhini.chilakamarri@usdoj.gov
joshua.wilkinfeld@usdoj.gov

James Uriah Blacksher
P.O. Box 636
Birmingham, AL 35201
jblacksher@ns.sympatico.ca

Ramona Albin
Praveen S. Krishna
Joyce White Vance
U. S. ATTORNEY'S OFFICE
1801 4th Avenue N
Birmingham, AL 35203-2101
ramona.albin@usdoj.gov
praveen.krishna@usdoj.gov
joyce.vance@usdoj.gov

s/ John C. Neiman, Jr.

OF COUNSEL