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

CENTRAL ALABAMA FAIR HOUSING CENTER, et al.,	)	
Plaintiffs,	)	
v.	)	CIVIL ACTION NUMBER: 2:11-cv-00982-MHT-CSC
JULIE MAGEE, Revenue Commissioner for the State of Alabama, et al.,	)	
Defendants.	)	

STATE DEFENDANT'S MOTION TO SUBMIT ADDITIONAL EVIDENCE IN SUPPORT OF MOTION TO DISMISS (DOC. 85)

State Defendant, Commissioner Julie Magee, sued in her official capacity as Revenue Commissioner for the State of Alabama, moves to submit the following additional evidence in support of her motion to dismiss (doc. 85): the December 20, 2011 Memorandum of Commissioner Magee to local officials instructing that certain transactions are business transactions under Section 30 of Act No. 2011-535 and that certain other transactions are not. The memorandum is attached as Exhibit A.

1. Alabama Code § 40-12-255 requires certain owners of manufactured homes to pay an annual registration fee for their manufactured home and to display the furnished decal. *See also* Doc. 31, First Amended Complaint, ¶ 6. Plaintiffs'

lawsuit is premised on the allegation that the Revenue Department "treats the act of complying with Alabama Code § 40-12-255 as a 'business transaction'" with state or local government under Section 30. Doc. 31, ¶ 7. If an act is a business transaction with state or local government under Section 30, then the person engaging in the business transaction with the state or local government must demonstrate his or her U.S. citizenship, or if he or she is an alien, his or her lawful presence in the United States. Act No. 2011-535, § 30(c).

2. Pursuant to Commissioner Magee's December 20, 2011 Memorandum, the Revenue Department no longer considers the "[r]egistration of and issuance of decals on manufactured homes" pursuant to Alabama Code § 40-12-255 to be a business transaction for purposes of Section 30. Exhibit A. This consideration was made as part of the Department's re-evaluation of which transactions are considered business transactions for purposes of Section 30, in regard to the Attorney General's Guidance Letter 2011-02. *See id.* As Commissioner Magee filed her motion to dismiss (doc. 85) on December 9, 2011, the December 20, 2011 Memorandum did not exist at that time.

WHEREFORE, the State Defendant respectfully requests the Court to consider Commissioner Magee's December 20, 2011 Memorandum, attached as Exhibit A, in support of her motion to dismiss.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of December 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel of record:

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