

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

HISPANIC INTEREST COALITION)
OF ALABAMA; *et al.*,)
)
Plaintiffs,)
)
vs.)
)
ROBERT BENTLEY, in his official capacity)
as Governor of the State of Alabama; *et al.*,)
)
Defendants.)

Case Number:
5:11-cv-02484-SLB

UNITED STATES OF AMERICA,)
)
Plaintiffs,)
)
vs.)
)
STATE OF ALABAMA; and)
GOVERNOR ROBERT J. BENTLEY,)
)
Defendants.)

Case Numbers:
2:11-cv-02746-SLB

**JOINT STIPULATION AS TO APPLICABILITY OF PRELIMINARY
INUNCTION TO SECTION 6 OF H.B. 658**

Come now Plaintiffs Hispanic Interest Coalition of Alabama, *et al.* (“HICA Plaintiffs”) in Case No. 5:11-cv-02484, Plaintiffs United States of America (“USA Plaintiff”) in Case No. 2:11-cv-2746, and Defendants the State of Alabama, Governor Robert Bentley, Attorney General Luther Strange, Superintendent Tommy Bice, Chancellor Freida Hill, and District Attorney Robert L. Broussard

(collectively, “State Defendants”) in both actions, to jointly stipulate that the parties agree that the preliminary injunction (hereinafter “the Preliminary Injunction”) issued September 28, 2011, in case No. 2:11-cv-02746-SLB,¹ applies to Section 6 of H.B. 658, 2012 Regular Session (which was signed into law and became effective on May 18, 2012) at this time. As a basis for this joint stipulation, the parties state as follows:

1. This litigation involves a challenge to H.B. 56, which was passed by the Alabama Legislature in 2011. After hearings on motions for preliminary injunction brought by HICA Plaintiffs and the USA Plaintiff, the Court preliminarily enjoined some but not all of the provisions of H.B. 56 on September 28, 2011. One of the provisions preliminarily enjoined was Section 13 of H.B. 56, codified at Section 31-13-13 of the Alabama Code, which makes it a crime to, among other things, “[h]arbor an alien unlawfully present in the United States by entering into a rental agreement, as defined by Section 35-9A-141, with an alien to provide accommodations, if the person knows or recklessly disregards the fact that the alien is unlawfully present in the United States.” Ala. Code 31-13-13(a)(4); *see*

¹ Case No. 2:11-cv-02746-SLB is the case in which the United States of America is a plaintiff. In case no. 5:11-cv-02484-SLB, the Hispanic Interest Coalition of Alabama (HICA) and other private plaintiffs similarly moved to enjoin section 13, but the HICA Plaintiffs’ motion was denied as moot following the entry of the injunction in case no. 5:11-cv-02746-SLB.

United States v. Alabama, 813 F. Supp. 2d 1282, 1336, 1328-37 (N. D. Ala. 2011) (preliminarily enjoining Section 13).

2. Defendants appealed, *inter alia*, the Court's ruling preliminarily enjoining Section 13 of H.B., and the appeal remains pending in the Eleventh Circuit.

3. On May 16, 2012, the Alabama Legislature passed legislation amending some of the provisions it originally had enacted into law through H.B. 56. This new Act, originally denominated H.B. 658 at its introduction in the Legislature, became law on May 18, 2012. Of particular relevance to this filing² is Section 6 of H.B. 658, which is identical in all material respects to Section 13(a)(4) of H.B. 56. Section 6 of H.B. 658 reads as follows:

Section 6. Notwithstanding any other provision of law to the contrary, it shall be unlawful for a person to harbor an alien unlawfully present in the United States by entering into a rental agreement, as defined by Section 35-9A-141, with an alien to provide accommodations, if the person knows or recklessly disregards the fact that the alien is unlawfully present in the United States.

H.B. 658 § 6 (attached as Ex. A, pgs. 57-58). H.B. 658, including Section 6, went into effect immediately upon the signature of the Governor. *See id.* § 10 (Ex. A at p. 59).

² H.B. 658 made numerous other modifications to H.B. 56. This filing relates to Section 6 of H.B. 658 only, because of Plaintiffs' time-sensitive need for confirmation that Defendants agree that the Preliminary Injunction applies to Section 6 of H.B. 658. The parties seek to reserve the right to submit additional filings related to the impact of other aspects of H.B. 658 on this litigation.

4. Without conceding any issues arising from the Preliminary Injunction, and without Defendants waiving any objection to the validity of that Preliminary Injunction as it relates to Section 13(a)(4) of H.B. 56 or otherwise, all parties take the position that the Preliminary Injunction entered by the District Court on September 28, 2011, nominally applying to Section 13(a)(4) of H.B. 56, applies with equal force to Section 6 of H.B. 658.

5. Because of their understanding of the applicability of the Preliminary Injunction to Section 6 of H.B. 658, the Defendants stipulate that the Preliminary Injunction enjoins them from enforcing Section 6 of H.B. 658, unless and until the Preliminary Injunction is vacated or otherwise modified by this Court or another court as it relates to criminalizing the act of “entering into a rental agreement, as defined by Section 35-9A-141, with an alien to provide accommodations, if the person knows or recklessly disregards the fact that the alien is unlawfully present in the United States.” However, by so stipulating, Defendants expressly preserve, and do not waive, any and all of their objections to original entry of the Preliminary Injunction and their appeal of that aspect of the order.

Respectfully submitted,

/s/ Samuel L. Brooke

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CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2012, I have electronically filed the foregoing using the Court's CM/ECF system, which will send notice of such filing to all counsel of record.

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