

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

REV. PAUL A. EKNES-TUCKER;
BRIANNA BOE, individually and on
behalf of her minor son, MICHAEL BOE;
JAMES ZOE, individually and on behalf
of his minor son, ZACHARY ZOE;
MEGAN POE, individually and on behalf
of her minor daughter, ALLISON POE;
KATHY NOE, individually and on behalf
of her minor son, CHRISTOPHER NOE;
JANE MOE, Ph.D.; and RACHEL KOE,
M.D.

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

STATE OF ALABAMA; KAY IVEY, in
her official capacity as Governor of the
State of Alabama; STEVE MARSHALL,
in his official capacity as Attorney General
of the State of Alabama; DARYL D.
BAILEY, in his official capacity as
District Attorney for Montgomery County;
C. WILSON BAYLOCK, in his official
capacity as District Attorney for Cullman
County; JESSICA VENTIERE, in her
official capacity as District Attorney for
Lee County; TOM ANDERSON, in his
official capacity as District Attorney for

Case No. 2:22-cv-184-LCB-
SRW

Honorable Liles C. Burke

the 12th Judicial Circuit; and DANNY CARR, in his official capacity as District Attorney for Jefferson County.

Defendants.

PLAINTIFF-INTERVENOR UNITED STATES' REPLY TO DEFENDANTS' RESPONSE IN PARTIAL OPPOSITION TO THE UNITED STATES' MOTION TO INTERVENE AND MOTION FOR EXCESS PAGES

Plaintiff-Intervenor the United States of America (“United States”) submits this reply to Defendants’ Response in Partial Opposition to the United States’ Motion to Intervene [Dkt. No. 58], and Motion for Leave to File Excess pages [Dkt. No. 60].

Defendants do not oppose the United States’ Motion to Intervene or Motion for Leave to File Excess pages. Instead, Defendants argue that the United States’ motion seeks to expand the scope of the requested relief and that its timing necessitates delaying the scheduled preliminary injunction proceedings or prohibiting the United States’ participation in those proceedings. Neither of these arguments has merit.

As stated in its Motion for a Temporary Restraining Order or a Preliminary Injunction [Dkt. No. 62], the United States does not seek to delay the case or the already-scheduled proceedings. The United States recognizes that S.B. 184 will go into effect on May 8, 2022, that the *Eknes-Tucker* Plaintiffs previously filed a

motion for a temporary restraining order and a preliminary injunction, and that the Court has set a hearing on that motion, which is scheduled to begin on May 5, 2022. The United States proceeded as expeditiously as practicable to intervene in this matter, and Defendants admit that the United States' complaint in intervention and motion for a temporary restraining order and a preliminary injunction do not raise any new claims. The inclusion of the State of Alabama as a named defendant does not alter the scope of relief sought by either the *Eknes-Tucker* Plaintiffs or the United States, and will not impact the May 5 hearing in any way.

The United States is prepared to participate in the hearing that begins on May 5. The United States does not intend to submit duplicative or repetitive arguments or witnesses. It seeks to participate solely to ensure that the interests of the United States are represented before this Court.

Defendants' argument that the potential inclusion of an additional witness, Dr. Armand Antommara, will prejudice them is without merit. Pursuant to this Court's scheduling order [Dkt. 34], all parties are to submit their "proposed exhibits and a list of expected witnesses" by May 3, 2022 at 9:00 am CDT. The United States is prepared to meet this deadline. The State will receive a list of witnesses from the *Eknes-Tucker* Plaintiffs at this time as well. Thus, including the United States in this process does not change the status quo. The United States has additionally conferred with counsel for the *Eknes-Tucker* Plaintiffs and can

confirm that any participation by the United States will not result in Plaintiffs collectively exceeding the two-day period allotted by this Court for the hearing.¹ Further, and as previously noted, the United States is willing to forego filing a reply brief in support of its motion for preliminary injunction to prevent prejudice to the other parties. [See Dkt. 62.]

Dated: May 2, 2022

Respectfully submitted,

SANDRA J. STEWART
United States Attorney
Middle District of Alabama

KRISTEN CLARKE
Assistant Attorney General
Civil Rights Division

PRIM F. ESCALONA
United States Attorney
Northern District of Alabama

JOHN POWERS (DC Bar No. 1024831)
Counsel to the Assistant Attorney General
Civil Rights Division

LANE H. WOODKE
Chief, Civil Division
Northern District of Alabama

CHRISTINE STONEMAN
Chief, Federal Coordination and
Compliance Section

s/Jason R. Cheek
JASON R. CHEEK
Deputy Chief, Civil Division
U.S. Attorney's Office
Northern District of Alabama
1801 Fourth Avenue North
Birmingham, Alabama 35203
Tel.: (205) 244-2104
Jason.Cheek@usdoj.gov

COTY MONTAG (DC Bar No. 498357)
Deputy Chief, Federal Coordination and
Compliance Section

STEPHEN D. WADSWORTH

s/Alyssa C. Lareau
ALYSSA C. LAREAU (DC Bar No. 494881)
RENEE WILLIAMS (CA Bar No. 284855)
KAITLIN TOYAMA (CA Bar No. 318993)
Trial Attorneys
United States Department of Justice
Civil Rights Division

¹ As noted in Plaintiffs' Response to the United States' Motion to Intervene (Doc. 58) and Defendants' Response (Doc. 63) [Dkt. No. 64], Plaintiffs have informed the Court that they expect the current hearing schedule will enable the United States to offer its additional witness and for the parties to fully respond to the United States' argument and evidence.

Assistant United States Attorney
U.S. Attorney's Office
Middle District of Alabama
Post Office Box 197
Montgomery, Alabama 36101-0197
Tel.: (334) 223-7280
Stephen.Wadsworth@usdoj.gov

Federal Coordination and Compliance
Section
950 Pennsylvania Avenue NW – 4CON
Washington, DC 20530
Tel.: (202) 305-2994
Alyssa.Lareau@usdoj.gov
Renee.Williams3@usdoj.gov
Kaitlin.Toyama@usdoj.gov

*Attorneys for Plaintiff-Intervenor United
States of America*

CERTIFICATE OF SERVICE

I hereby certify that on May 2, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record.

Respectfully submitted,

s/ Jason R. Cheek

Jason R. Cheek

Assistant U.S. Attorney