

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

REV. PAUL A. EKNES-TUCKER, *et al.*

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

STEVE MARSHALL, in his official capacity
as Attorney General of the State of Alabama,
et al.

Defendants.

Civil Action No.
2:22-cv-00184-LCB-CWB

**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE
TO AMEND COMPLAINT AND TO PROCEED PSEUDONYMOUSLY**

Pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiffs 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; Heather Austin, Ph.D., and Rachel Koe, M.D. hereby move for leave to amend their complaint and

for the new Plaintiffs added in Plaintiffs' First Amended Complaint to be permitted to proceed pseudonymously, respectfully showing the Court as follows:

1. On April 19, 2022, Plaintiffs filed their Complaint asserting various claims challenging the Alabama Vulnerable Child Compassion and Protection Act (the "Act") and seeking a preliminary injunction. (Doc. 1.) Because of concerns about criminal liability, safety, and privacy, certain Plaintiffs moved to proceed pseudonymously.¹ (Doc. 6.) Although Defendants opposed certain Plaintiffs from proceeding pseudonymously, they did not oppose the parents' and children's attempts to proceed pseudonymously. (Doc. 54.) The Court granted Plaintiffs' motion on May 3, 2022. (Doc. 83.)

2. On May 3, 2022, the parties jointly moved to dismiss the claims asserted against Defendant Governor Kay Ivey. (Doc. 85.) The Court granted that motion by oral order on May 5, 2022.

3. After Governor Ivey was dismissed as a defendant, the Court held an evidentiary hearing on Plaintiff's motion for a preliminary injunction on May 5-6, 2022. On May 13, 2022, the Court entered an Order granting in part Plaintiffs' motion for preliminary injunction. (Doc. 107.)

¹ Although Plaintiff Heather Austin, Ph.D. was identified in Plaintiffs' initial Complaint by the pseudonym Jane Moe, Ph.D., she withdrew her request for leave to proceed pseudonymously and counsel for Plaintiffs has revealed her identity to Defendants' counsel.

4. On July 15, 2022, the Court entered a scheduling order setting a deadline to add causes of action, defenses, or parties of August 5, 2022. (Doc. 135.)

5. Consistent with the Court's scheduling order, Plaintiffs seek leave to file the First Amended Complaint that is attached hereto as Exhibit A. The proposed First Amended Complaint: (1) corrects the caption to use Plaintiff Heather Austin, Ph.D.'s name in place of the pseudonym she used in the initial Complaint; (2) removes as Plaintiffs James Zoe, individually and on behalf of his minor son, Zachary Zoe; (3) removes as a Defendant Governor Kay Ivey, consistent with the Court's May 5, 2022 order dismissing the claims against her; (4) adds as Plaintiffs Rebecca Roe, individually and on behalf of her minor daughter, Melissa Roe and Robert Voe, individually and on behalf of his minor daughter, April Voe; (5) and removes from the Prayer for Relief Plaintiffs' prior request for attorneys' fees and costs. The causes of action asserted in the proposed First Amended Complaint otherwise remain the same as the causes of action asserted in Plaintiffs' initial Complaint.

6. Because of concerns about criminal liability, personal safety, and privacy, the new Plaintiffs added in Plaintiffs' proposed First Amended Complaint—Plaintiff Rebecca Roe, individually and on behalf of her minor daughter, Melissa Roe and Plaintiff Robert Voe, individually and on behalf of his minor daughter, April Voe—seek leave to proceed pseudonymously. Plaintiffs refer

the Court to the legal authorities cited in their prior motion to proceed pseudonymously, which likewise control here. (*See* Doc. 6.) Plaintiffs Roe and Voe are willing to submit declarations further supporting their motion to proceed pseudonymously should the Court so require.

7. Counsel for Plaintiffs has conferred with counsel for Defendants, and while preserving all defenses, Defendants do not oppose the filing of the amended complaint. Defendants also do not oppose Plaintiffs' request to allow Plaintiffs Roe and Voe to proceed pseudonymously.

8. Wherefore, Plaintiffs respectfully request that the Court grant their motion for leave to amend and to proceed pseudonymously and to permit Plaintiffs to file the proposed First Amended Complaint attached hereto as Exhibit A.

Respectfully submitted this 5th day of August, 2022.

/s/ Melody H. Eagan

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CERTIFICATE OF SERVICE

I certify that on August 5, 2022, I electronically filed the foregoing using the Court's CM/ECF system, which will send notification to all counsel of record.

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EXHIBIT A