

**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, et al.

*Defendants.*

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

**PLAINTIFFS’ RESPONSE TO DEFENDANTS’ MOTION TO  
DISMISS AMENDED COMPLAINT (DOC. 146) IN PART**

Plaintiffs Rev. Paul A. Eknes-Tucker; Brianna Boe, individually and on behalf of her minor son, Michael Boe; Megan Poe, individually and on behalf of her minor daughter, Allison Poe; Kathy Noe, individually and on behalf of her minor son, Christopher Noe; Becca Roe, individually and on behalf of her minor daughter Melissa Roe; Robert Voe, individually and on behalf of his minor daughter April Voe; Heather Austin, Ph.D.; and Rachel Koe, M.D. (collectively the “Private Plaintiffs”) respond to Defendants’ Motion to Dismiss Amended Complaint (Doc. 146) In Part (Doc. No. 150) (“Motion to Dismiss in Part”) as follows:

1. On September 12, 2022, Private Plaintiffs filed a Consent Motion for Leave to file a Second Amended Complaint (Doc. 153), in light of certain representations made by Defendants' counsel on the record during the May 5 and 6, 2022 hearing and findings by the Court regarding the intended scope of the Act, as documented in this Court's May 13, 2022 Preliminary Injunction Order and Opinion (Doc. 107), and after conferring with Defendants' counsel regarding their Motion to Dismiss in Part. The proposed Second Amended Complaint withdraws Counts III, IV, and V of the First Amended Complaint, as well as the claims asserted by Plaintiff Rev. Paul A. Eknes-Tucker.

2. If this Court grants Plaintiffs' Consent Motion for Leave to File a Second Amended Complaint, Defendants' Motion to Dismiss In Part is rendered moot. If the Court is not inclined to allow the Second Amended Complaint, Private Plaintiffs respectfully request an additional seven (7) days to submit a response to Defendants' Motion to Dismiss the Amended Complaint in Part.

Respectfully submitted this 13<sup>th</sup> day of September, 2022.

/s/ Melody H. Eagan

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**CERTIFICATE OF SERVICE**

I certify that, on September 13, 2022, I electronically filed the foregoing Response to Defendants' Motion to Dismiss Amended Complaint (Doc. 146) in Part with the Clerk of Court using the CM/ECF filing system, which will provide notice of such filing to all counsel of record.

*/s/ Melody H. Eagan*  
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*Attorney for Plaintiffs*