

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>ELAINE MAHAN,</b>	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION 09-00535-KD-B</b>
	)	
<b>MOBILE HOUSING BOARD,</b>	)	
<b>Defendant.</b>	)	

**ORDER**

This matter came before the Court for an evidentiary hearing on Defendant Mobile Housing Board’s Motion for Summary Judgment (Doc. 39), at which counsel for Defendant Mobile Housing Board and *pro se* Plaintiff Elaine Mahan appeared. The Court also heard oral argument from the parties as well as testimony from Plaintiff Mahan and Mobile Housing Board employees Sharon Foster and Geneva Galbraith.

“The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a) (Dec. 2010). “A party asserting that a fact cannot be ... genuinely disputed must support the assertion by: ... (A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or (B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.” FED. R. CIV. P. 56(a)(1)(A-B) (Dec. 2010). Thus, Defendant Mobile Housing Board, as the party seeking summary judgment, bears the responsibility of informing

the district court of the basis for its motion, and identifying those portions of the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, which it believes demonstrate the absence of a genuine issue of material fact. Clark v. Coats & Clark, Inc., 929 F.2d 604, 608 (11<sup>th</sup> Cir. 1991). For reasons previously stated on the record at the hearing, the Mobile Housing Board has failed to carry its summary judgment burden. Accordingly, it is hereby **ORDERED** that Defendant Mobile Housing Board's Motion for Summary Judgment (Doc. 39) is **DENIED**.

**DONE and ORDERED** this the 19<sup>th</sup> day of **January 2011**.

/s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**