

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

NORFOLK SOUTHERN)	
RAILWAY COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	CV-1:06-cv-00353-BH-M
)	
AMERICAN ROAD LINES, INC.)	
and ALBERT LILLY, JR.)	
Defendants.)	
)	

NOTICE OF CONSTITUTIONAL CHALLENGE


COMES NOW, AMERICAN ROAD LINES, INC. and ALBERT LILLY, JR, Defendants in the above-styled cause, and, in compliance with the requirements of §6-6-227 of the Code of Alabama (1975), hereby notifies the Attorney General of the State of Alabama of its constitutional challenge to the award of punitive damages under the Alabama substantive law and procedures, including the 1987 tort reform provisions governing the award and review of punitive damages in civil actions in the State of Alabama. As grounds therefor, these Defendants show as follows:

- a. These Defendants have filed an answer challenging the award of punitive damages under the law and statutes of this State.

Attached hereto and incorporated herein by reference and identified as Exhibit A is a copy of Plaintiff's complaint, and attached hereto and incorporated herein by reference and identified as Exhibit B is a copy of these Defendants' answer to the complaint.

- b. These Defendants aver that the Alabama's 1987 tort reform statutes governing punitive damages, including §6-11-20 through §6-11-27, do not correct and remedy the constitutional deficiencies asserted in these Defendants' answer and this notice should be construed as a constitutional challenge to those statutory provision on all of the grounds stated in the attached Exhibits A and B.

Respectfully submitted,



JEFFREY L. LUTHER--LUT003
Attorney for said Defendants

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of June 2006, served a copy of the foregoing upon counsel to all parties to this proceeding by placing the same in the United States mail, properly addressed and first-class postage prepaid.

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