


JUN 02 2011

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

By:  CLERK
Deputy Clerk

Georgia Latino Alliance for Human
Rights, et al.,

Plaintiffs,

v.

Governor Nathan Deal, et al.,

Defendants.

Case No. 1:11-CV-1804

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
DOE PLAINTIFFS' MOTION FOR LEAVE TO PROCEED UNDER
PSEUDONYMS**

I. INTRODUCTION AND STATEMENT OF FACTS AND ISSUES

Plaintiffs Jane Doe #1, Jane Doe #2, John Doe #1, and John Doe #2 (collectively "Doe Plaintiffs") respectfully request leave to proceed under pseudonyms. In this action, Doe Plaintiffs, along with several other named organizational and individual plaintiffs, challenge Georgia House Bill 87 ("HB 87"). The Doe Plaintiffs request anonymity on several independent grounds.

First, public disclosure of the Doe Plaintiffs' identities and participation in this action would seriously jeopardize the very constitutional protections that they

and the other plaintiffs seek to vindicate in this lawsuit. The Doe Plaintiffs reasonably fear that, if their identities were to become public, there would be an increased risk that they or their family members would be subjected to unconstitutional detention by state or local law enforcement officials acting under the auspices of HB 87. They also fear that they or their family members could suffer adverse immigration consequences, up to and including immigration detention and the initiation of removal proceedings.

Second, immigration generally and HB 87 in particular have been the subject of intense and heated debate in Georgia. In this highly charged atmosphere, the Doe Plaintiffs fear harassment and even physical harm if their identities and personal stories are disclosed publicly.

Third, this case turns on legal questions, not on the identities of any particular individuals. Thus, the public's interest in open judicial proceedings will not be affected if the Doe Plaintiffs are permitted to proceed anonymously.

Fourth, Defendants will not suffer any prejudice if the Doe Plaintiffs are permitted to proceed anonymously, because this case turns solely on the constitutionality of HB 87.

II. THE COURT SHOULD GRANT THE DOE PLAINTIFFS' MOTION TO PROCEED UNDER PSEUDONYMS

In determining whether to grant leave to proceed under a pseudonym, a court “should carefully review *all* the circumstances of a given case.” *Doe v. Frank*, 951 F.2d 320, 323 (11th Cir. 1992) (per curiam) (emphasis in original). Relevant factors include: whether the plaintiffs are challenging governmental activity, *id.*, whether the issues involved are of a “highly sensitive” nature, *id.* at 324, whether the litigants may be subjected to “social stigma” or “physical harm” as a result of the information disclosed, *id.*, whether plaintiffs would be admitting their intent to engage in illegal conduct thereby risking criminal prosecution, *id.* at 323, and whether anonymity would prejudice the defendants or harm the public, *id.* at 323-24.

As discussed below, the balance in this case weighs heavily in favor of each of the Doe Plaintiffs. Indeed, under very similar circumstances, the Third Circuit and the District of Arizona recently allowed plaintiffs to proceed under pseudonyms because of the threat of adverse immigration consequences, the climate of hostility surrounding immigration, and the fact that the plaintiffs’ constitutional claims were of a purely legal nature. *See Lozano v. Hazelton*, 620 F.3d 170, 194-96 (3d Cir. 2010); Order Granting Motion to Proceed Anonymously,

Friendly House v. Whiting, No. 10-1061, Rec. Doc. 212 (D. Ariz. Filed June 21, 2010) (“*Friendly House Order*”).¹

A. DISCLOSURE OF THE DOE PLAINTIFFS’ IDENTITIES WOULD EXPOSE THEM TO SERIOUS HARM

Jane Doe #1²

Jane Doe #1 is a United States citizen of Hispanic descent who was born in Georgia in 1981 and has lived in Georgia for her entire life. Jane Doe #1 Dec. ¶ 1. Her husband is an undocumented immigrant, and together they have three young children. *Id.* ¶¶ 3-4. Jane Doe #1’s husband has no documentation he can show to law enforcement officers to prove his status, making him vulnerable to detention and arrest by the police if HB 87 takes effect. He cannot drive due to a disabling injury, and Jane Doe #1 regularly drives him to doctor’s appointments and to physical therapy sessions. *Id.* ¶ 4. If HB 87 goes into effect, she worries that if her name was made public as part of this lawsuit, a routine traffic stop could lead to

¹ In addition, under similar circumstances in Utah, the state defendants declined to object to plaintiffs’ motion to proceed under pseudonyms. *Utah Coalition of La Raza v. Herbert*, No. 11-401 (D. Utah). Plaintiffs moved for Doe status on May 4, 2011. *Id.* Rec. Doc. 20. Under the local rules for the District of Utah, defendants had 14 days in which to file a response. D. Utah L.R. 7-1(b)(4)(B). As of the date of filing of the instant motion, more than 14 days have passed without the state defendants responding to Plaintiffs’ motion.

² The factual basis of Jane Doe #1’s claims are also recited in the Complaint at paragraph 50.

her and her husband being detained, followed by deportation for him and felony charges of transporting of an undocumented immigrant for her. *Id.*

The balancing of interests weighs strongly in favor of Jane Doe #1 being granted Doe status. Jane Doe #1's participation in this lawsuit requires that she reveal sensitive information about her husband's immigration status which, if her name is known, could subject them both to public hostility and retaliation. Her husband's immigration status is highly sensitive information that should be protected from public disclosure. *See Lozano v. Hazleton*, 496 F. Supp. 2d 477, 508-09 (M.D. Pa. 2007) *aff'd in part*, 620 F.3d 170; *Keller v. Fremont*, No. 10-0270, 2011 U.S. Dist. LEXIS 2733 (D. Neb. Jan. 5, 2011); *Friendly House Order* at 2. If Jane Doe #1's is stopped by a police officer while driving her husband, the officer may, upon recognizing her name from this lawsuit, detain Jane Doe #1's husband on the ground that Jane Doe #1's statements in her declaration create the basis to arrest her husband pursuant to Section 9(d) of HB 87 for a violation of federal immigration law. In addition, if Jane Doe #1's name is publicly disclosed, she risks criminal prosecution under Section 7 of HB 87 for "knowingly and intentionally transporting" an undocumented immigrant. *See Ga. Code Ann. § 16-11-200(b)*. In similar situations in which plaintiffs are "compelled to admit their intention to engage in illegal conduct and thus risk criminal prosecution," courts

have granted motions to proceed anonymously. *Plaintiff B v. Francis*, 631 F.3d 1310, 1316 (11th Cir. 2011) (anonymity favored where plaintiffs risk criminal prosecution); *see also Doe v. Stegall*, 653 F.2d 180, 185 (5th Cir. 1981) (same).³

Jane Doe #2⁴

Jane Doe #2 is a twenty-three year old Mexican national and Georgia resident. Jane Doe #2 Decl. ¶¶ 1-2. Her parents brought her to the United States approximately twelve years ago. *Id.* ¶ 2. She graduated from high school and college in Georgia and considers Georgia her home. *Id.* ¶ 4. About two years ago, police pulled her over for a traffic infraction and charged her for driving without a license, and then transferred her to an Immigration and Customs Enforcement (“ICE”) detention center where she was detained for a month while awaiting removal from the United States. *Id.* ¶ 6. ICE granted her deferred action status until May 2011, and later extended her deferred action grant until May 2012, but she has no photo identification reflecting this federal decision not to seek to deport her. *Id.* ¶¶ 6-7. When Jane Doe #2 first received deferred action, she applied for and obtained a Georgia driver’s license, however, that license expired when the

³ The decisions of the Fifth Circuit prior to October 1, 1981 are binding precedent in the Eleventh Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981).

⁴ The factual basis of Jane Doe #2’s claims are also recited in the Complaint at paragraphs 57-59.

first period of deferred action expired. *Id.* ¶ 7. Currently, she has none of the identity documents required by HB 87, nor can she apply for a Georgia driver's license or identification card because she has no paperwork that would make her eligible under Georgia's motor vehicle rules. *Id.*

As stated above, immigration status is a sensitive matter that courts have found warrants the grant of Doe status. *See Lozano*, 496 F. Supp. 2d at 508-09; *Keller*, 2011 U.S. Dist. LEXIS 2733; *Friendly House Order* at 2. Jane Doe #2 has particular concerns because encounters with Georgia law enforcement may trigger the reopening of her removal proceedings. Although the federal immigration authorities know of Jane Doe #2's presence and have decided not to seek her removal, that decision is discretionary and subject to change. Jane Doe #2 Decl. ¶ 6. In addition, a Georgia law enforcement officer who recognizes her name from this lawsuit may retaliate for her participation by exercising his discretionary authority to check immigration status, thereby subjecting Jane Doe #2 to an unlawful detention. *See Does I Thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1070-71 (9th Cir. 2000) (granting workers' request for anonymity where they faced retaliation from their employers, which could lead to their arrest and deportation).

John Doe #1⁵

John Doe #1 is a nineteen year old Latino born in Mexico. John Doe #1 ¶¶ 1-2. His parents brought him to the United States, seeking work and better educational opportunities for their children, when he was approximately nine years old. *Id.* ¶ 2. He and his parents are undocumented, however, he considers Georgia his home, having grown up here, and with many of his aunts, uncles, and cousins also living in Georgia. *Id.* ¶¶ 3-4, 9. John Doe #1 graduated from a Georgia high school with a 3.5 GPA, as a member of the Reserve Officer Training Corps (“ROTC”), and as vice-president of the senior class. *Id.* ¶ 6. He was accepted into college, and although he was unable to matriculate because he could not afford the tuition, his goal is to eventually attend college and become a political journalist or high school Advanced Placement English teacher. *Id.* ¶ 7. John Doe #1 lacks a Georgia driver’s license or other document accepted as proof of legal status under HB 87 Section 8. *Id.* ¶ 12. He has been racially profiled in the past while a passenger sitting in the back seat of a friend’s car that stopped at a police checkpoint. *Id.* ¶ 10. The officer asked to see his ID, although he was a passenger, but did not ask to the see ID of the white, female passenger in the front seat, and

⁵ The factual basis of John Doe #1’s claims are also recited in the Complaint at paragraphs 53-54.

the officer did not leave until John Doe #1 asked whether ID was required for a passenger and began filming the incident on his cell phone. *Id.*

John Doe #1 should be permitted to proceed under a pseudonym. The public disclosure of his name would expose intimate information about his immigration status and that of his family. *See Lozano*, 496 F. Supp. 2d at 508-09; *Keller*, 2011 U.S. Dist. LEXIS 2733; *Friendly House Order* at 2. He fears that exposure of his name could lead to his family having to leave the life they have forged for themselves in Georgia due to fears of detention through interaction with the police. *Id.* ¶ 9. Although he will try to curtail his time outdoors if HB 87 goes into effect, *id.* ¶ 8, John Doe #1 will still have to travel on the streets to get life necessities and may enter police encounters where his immigration status is checked because he lacks a qualifying identity document under HB 87's Section 8. *Id.* ¶ 12. As stated above, should John Doe #1 be stopped by a police officer who recognizes his name from this lawsuit, the officer may arrest John Doe #1 upon recognition of his name on the ground that his declaration creates the basis for an arrest under Section 9 of HB 87. In analogous situations where plaintiffs must declare their non-compliance with a law in the course of litigating their claims, courts have granted motions to proceed under a pseudonym. *Plaintiff B*, 631 F.3d at 1316; *Stegall*, 653 F.2d at 185. In addition, John Doe #1's youth weighs in favor of allowing him to proceed

anonymously. *See Plaintiff B*, 631 F.3d at 1314-1317 (considering the ages of young women, no longer minors, while granting anonymity); *Stegall*, 653 F.2d at 186 (“A final factor we find especially persuasive is the fact that plaintiffs are children.”).

John Doe #2⁶

John Doe #2 was born in Mexico in 1976. John Doe #2 Decl. ¶ 1. He entered this country without authorization in order to find work to support his family in Mexico. *Id.* ¶¶ 2, 8. He does not have a Georgia driver’s license or any of the other documents required by HB 87 to show that he is legally within the United States. *Id.* ¶ 3. Therefore, if stopped by police, he fears he would be exposed to a prolonged detention while the police check his immigration status. *Id.* ¶¶ 4-5, 8. He has been racially profiled by police in the past, and he fears being racially profiled again and detained by the police while they check his immigration status, thereby potentially leading to his arrest and removal from this county. *Id.* ¶¶ 3, 8.

As with other Doe Plaintiffs, John Doe #2 fears that if his name is made public in the context of this lawsuit, Georgia state and local law enforcement officers with whom he comes in contact will retaliate against him for his

⁶ The factual basis of John Doe #2’s claims are also recited in the Complaint at paragraphs 55-56.

participation in the lawsuit. *See Does I Thru XXIII*, 214 F.3d at 1070-71.

Additionally, law enforcement officers may take his participation in this lawsuit as evidence of his removability, and may arrest him under HB 87's Section 9. As stated above, courts have allowed plaintiffs to proceed under a pseudonym where plaintiffs have had to admit their non-compliance with the law as part of a lawsuit. *Plaintiff B*, 631 F.3d at 1316; *Stegall*, 653 F.2d at 185; *Southern Methodist University Ass'n v. Wynne & Jaffe*, 599 F.2d 707 (5th Cir. 1979).

B. DOE PLAINTIFFS FACE SOCIAL STIGMA, HARASSMENT, AND PERHAPS VIOLENCE IF THEIR IDENTITIES ARE MADE PUBLIC

The hostility and anti-immigrant sentiment surrounding the immigration debate strongly counsels in favor of allowing each of the Doe Plaintiffs to proceed anonymously. *See Lozano*, 620 F.3d at 195 (anonymity warranted where “ethnic tensions had escalated” and plaintiffs “would face an ‘exponentially greater’ risk of harassment, and even physical danger, if their identities were revealed”) (citation omitted); *Roe v. Aware Woman Ctr. for Choice*, 253 F.3d 678 (11th Cir. 2001) (anonymity warranted in abortion case, where the abortion issue had elsewhere “lead to death, injury, harassment, [and] fear”); *Stegall*, 653 F.2d at 186 (anonymity warranted where plaintiffs faced “extensive harassment and perhaps even violent reprisals if their identities are disclosed to a . . . community hostile to the viewpoint reflected in plaintiffs’ complaint”).

The debate in Georgia over HB 87, its short-lived Senate counterpart SB 40, and immigration in general has been heated, with private citizens and legislators making disparaging comments about immigrants. *See* Tsu Decl. Ex. C (online readers’ comments to blog post reporting that Governor Deal was likely to sign HB 87 describing immigrants as “unintelligent cowards that can not create anything other than crime, violence, poverty and babies”); Benjamin Decl. ¶¶ 4-5 (describing his students’ sharing “intense anger” about Latinos’ presence including descriptions of Latinos as “dirty and dangerous”; statements that Latinos are “taking over and we need to do something about it”; references to immigration as an “invasion”; use of terms such as “beaner” to describe Latinos; and comparisons of Latinos with “cancer” or a “virus” in our nation); *id.* ¶ 6 (public comments on newspaper discussion boards describing immigrants as “diseased,” or “carry[ing] leprosy”); Rees Decl. ¶ 7 (foreign exchange students and students of color asked “Why don’t you go home?” and targeted with anti-immigrant hostility). In Georgia, this debate about unauthorized immigration has taken on an ugly, sometimes violent tone. *See* Tsu Decl. Ex A (newspaper article reporting Georgia State Senator Jack Murphy, sponsor of SB 40, advocating that U.S. border agents should “shoot to kill” immigrants under certain circumstances); *id.* Ex. B at *47, 51 (online readers’ comments to newspaper article on the indictment of an

undocumented student; posts include: “I have a solution, put armed soldiers along the border and every illegal alien . . . that trys [*sic*] to cross, just shoo[t] them” and “impose summary executions for any [and] all illegal immigrants.”); *id.* Ex. C at *34 (online readers’ comments to blog post reporting the passage of HB 87; posts include the following response to a comment that “[c]rossing the border illegally is not a capital offense”: “Not yet, but maybe if we’re lucky.”); Rees Decl. ¶ 6 (discussing “hateful” and “ugly” tone of the public discourse on immigration in Georgia).

The harsh anti-immigrant and anti-Latino tone of the public discourse on immigration in Georgia quells the free expression even of people with legal status. *See* Benjamin Decl. at ¶ 8 (explaining that a Latino professor and two Latino students elected to office hours and classes, respectively, rather than be subjected to racial profiling and scrutiny at a police checkpoint); *id.* ¶ 9 (describing how students decided not to participate in a conference on immigration in the southeast after its targeting by anti-immigrant activists). The charged debate on immigration exposes those who publicly take a stand in favor of immigrants’ rights to conflict and harassment. *See id.* ¶ 10 (describing how he has been called “terrorist” and someone who “hate[s] America” after speaking publicly in support of immigrants’ rights and diversity); Rees Decl. ¶ 5 (detailing harassing phone call accusing her of

instilling hatred after she gave testimony critical of certain aspects of HB 87). The Doe Plaintiffs reasonably fear that their public association with this lawsuit would cause them to be targeted for backlash and retribution. Benjamin Decl. ¶¶ 10-11; Rees Decl. ¶¶ 8, 10. In similar cases where plaintiffs risked backlash and harassment if their names were disclosed, the courts have granted leave to proceed anonymously. *See Plaintiff B*, 631 F.3d at 1317-18 (risk to reputation); *Lozano*, 620 F.3d at 194-96 (unlawful status plus risk of harassment); *Stegall*, 653 F.2d at 186 (risk of harassment and potential violence); *Doe v. Barrow County*, 219 F.R.D. 189, 193-94 (N.D. Ga. 2003) (risk of community disapproval and hostility).

C. PERMITTING THE DOE PLAINTIFFS TO PROCEED ANONYMOUSLY WILL NOT HARM THE PUBLIC INTEREST IN OPEN PROCEEDINGS

The public interest in open court proceedings would not be harmed by permitting four individual plaintiffs in this action to proceed under pseudonyms. Under Eleventh Circuit precedent, party anonymity has only a limited impact on the public's access to the courts and "does not obstruct the public's view of the issues joined or the court's performance in resolving them." *Stegall*, 653 F.2d at 185. Shielding the Doe Plaintiffs from having their names publicized here will not hinder the resolution of the constitutional issues in an open and public forum. *See Barrow County*, 219 F.R.D. at 193 ("The resolution of the underlying

constitutional issue in this case . . . will be decided in an open and public forum. Should this case progress to trial, the public will be free to attend the proceedings. Any court orders or opinions concerning the merits of this case will be available for public inspection. In the end, the only thing potentially being shielded from the public is plaintiff's name and any court proceedings or opinions that might be necessary to determine standing.”).

D. PERMITTING THE DOE PLAINTIFFS TO PROCEED ANONYMOUSLY WOULD NOT PREJUDICE DEFENDANTS

Finally, Defendants will suffer no prejudice if the Court permits the Doe Plaintiffs to proceed anonymously, as this case involves strictly legal issues and does not turn on questions of the individual Plaintiffs' background or credibility. *See Barrow County*, 219 F.R.D. at 194 (“[T]he inconvenience to defendants [from allowing plaintiff to proceed anonymously] should be relatively low. This is not a case that will be determined by plaintiff's credibility or recitation of facts. Rather, as long as plaintiff has standing to sue, this case will depend on the resolution of a legal question The relevant facts . . . will likely come from witnesses other than the plaintiff. The legal issues, while possibly the subject of expert testimony, will be determined by the arguments of counsel. At the end of the day, plaintiff plays a relatively minor role in this litigation”). Unlike anonymous lawsuits against private parties, anonymous lawsuits “challenging the constitutional,

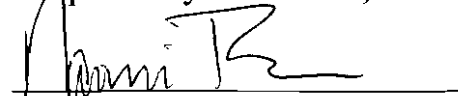
statutory, or regulatory validity of government activity . . . involve no injury to the Government's reputation." *S. Methodist Univ. Ass'n of Women Law Students*, 599 F.2d at 713; *see also Stegall*, 653 F.2d at 185-86 (one factor weighing in favor of anonymity is that the parties seeking anonymity are challenging governmental activity). The State of Georgia faces no prejudice here if the Doe Plaintiffs are allowed to proceed under pseudonyms.

III. CONCLUSION

All four Doe Plaintiffs would be at risk of great harm if their identities were revealed. Permitting them to proceed anonymously would not materially harm the public interest in open court proceedings; nor would it prejudice Defendants. Therefore, the Doe Plaintiffs should be permitted to proceed under pseudonyms in this action.

Dated: June 2, 2011

Respectfully submitted,⁷



Naomi Tsu

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Declaration of Jesse Benjamin

I, Jesse Benjamin, declare:

I make this declaration based on my personal knowledge. If called to testify, I could and would competently state what follows.

1. I am Coordinator of African and African Diaspora Studies, Facilitator of Cultural and Regional Studies (Latin American and Latino Studies, Gender and Women's Studies, American Studies, Asian Studies, African and African Diaspora Studies, Environmental Studies, and Peace Studies), Associate Professor of Sociology and Criminal Justice, and the incoming chair of the Presidential Diversity Commission on Race and Ethnicity at Kennesaw State University ("KSU"). I received my Ph.D. in Sociology and MA in Cultural Anthropology from the State University of New York, Binghamton. I have received many honors and awards including four Teacher of the Year or Professor of the Year awards.
2. For the past five years at KSU, I have taught courses including Race and Ethnicity, a survey of racial and ethnic relations concentrating on the American experience. In that class, my students collect and share extensive personal observations from daily life about race and racism. Many students have reported being racially profiled, or witnessing this happening to others.

Latino students have talked about how they were told in a routine traffic stop, “Why don’t you go back where you come from?” These were U.S. citizen students who were born and raised in Georgia. One student recently shared about being stopped by police while she was travelling in a car with three other young women. Two of the women were white and two were, or looked, Latina. The police asked the white women questions such as “Are you okay? Why are you out? Are these your friends?” The police told the Latina-appearing students to get out of the car and required them to show several IDs in order to establish their residency in Georgia.

3. I have encountered racial profiling through my own interactions. Law enforcement officers who are students enrolled in my classes have reported thinking of all Latinos as Mexican immigrants. Another law enforcement officer student told me that he can tell someone is an undocumented immigrant if they speak with a Spanish accent.
4. Many of my students have expressed intense anger about the presence of Latino communities, either in their own voices or sharing the sentiments of friends, family, or coworkers, with comments such as, “I don’t want to be around those people”; “They are dirty and dangerous, I don’t go there because I could get robbed”; “They are taking over and we need to do

something about it”; and referring to Latino immigration as an “invasion.”

One student shared how her brother and his friends, while in high school, would routinely pass their lunch hour by throwing rocks at Latinos who gathered on a particular street corner as day laborers looking for work.

5. My students have reported anti-Latino hostility in their communities.

Students who work at stores have told me that their bosses have asked them to racially profile Latinos by following them around the store and watching what they do. Students who work in restaurants have shared that patrons have been so racist toward Latino waiters that the Latino waiters switched jobs to the lower-paid positions in the back of the restaurants. Students have talked about, and I have seen, anti-Latino sentiments—such as “no habla Español – and never will” and “INS agents eat free” —expressed on a sign outside a local bar and grill on Roswell Road, one of the major thoroughfares close to campus. Students have brought me newspaper articles, some with anonymous reader discussion boards attached, that use offensive language, such as “beaner,” to refer to Latinos, or refer to Latinos as “a cancer,” or a “virus” in our nation.

6. I pay attention to the debate on immigration in Georgia. Xenophobic language is regularly used in newspaper discussion boards related to articles

about Latinos or immigrants. People posting to these discussion boards routinely blame immigrants for common social problems such as traffic congestion, unemployment, and violent crime. Others write that immigrants are diseased and carry illnesses such as leprosy.

7. Students have discussed HB 87 in my classes, reporting that other students and faculty have made anti-immigrant statements during other classes on our campus in the course of debating HB 87.
8. Latinos' fear of profiling and interference by law enforcement is also quite prevalent, even here on my own campus. One day in 2010, police established a roadblock near campus. An undocumented KSU student had just been arrested on campus for a traffic violation, held for over a month, and then released from ICE detention, creating a great deal of discussion about immigrants at KSU and in the community. A Latino professor and two Latino students told me that they saw the roadblock and turned around and went home, foregoing office hours and class for the day. Although each has legal status, they did not want to go through that scrutiny in front of their peers.
9. Last year I spoke at the "2010 KSU Conference on Immigration in the Southeast: Defining Problems, Finding Solutions." Threatened protests by

anti-immigrant activists led to debates about shutting down the conference. Students and faculty discussed with me whether to participate in the conference, and whether they would be safe doing so or whether violence or other retribution would occur. In the end, the conference was held, but some students decided not to participate.

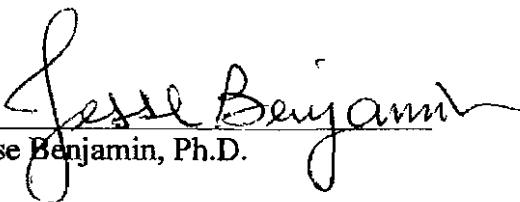
10. I have seen instances of backlash against those who speak out in favor of diversity and immigration. I have experienced a backlash for speaking in support of immigrants' rights and diversity, with people saying things like, "You just hate white people," "You hate America," and "You're a terrorist," when I speak out for diversity and against xenophobia against immigrants. Further, my taking one particularly public stance on this issue—during the 2010 KSU Conference—was sufficient cause for me to again be targeted by this kind of backlash.

11. Based on my own personal experiences, my training in sociology, my research, and my observations of the tenor of the public debate on immigration in Georgia, I believe there is a high risk of public backlash against people who speak publicly against HB 87. I believe that there is a high likelihood that any immigrant who publicly associates with a lawsuit

challenging HB 87, regardless of that immigrant's status, will be targeted for retribution.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Signed this 1st day of June, 2011 in Kennesaw, Georgia.



Jesse Benjamin, Ph.D.

DECLARATION OF MARTHA WOODSON REES

I, Martha W. Rees hereby declare:

I make this declaration based on my own personal knowledge and if called to testify I could and would do so competently as follows:

1. I am a Professor of Anthropology, Co-Director of Environmental and Sustainability Studies and Co-Director of the Program in Public Health at Agnes Scott College in Atlanta, Georgia. I received my PhD in Anthropology from the University of Colorado in 1989.
2. For the past twenty years I have carried out research into the relations between U.S. immigrants from Mexico and their home countries, communities, and ethnic groups. I have written numerous articles and chapters, as well as presented academic papers, carried out research (and submitted reports) on immigrants generally, Latinos in Atlanta specifically, regional systems and communities, worker safety, households, economies, and more.
3. I have received several grants and awards for my scholarship and teaching including a Fulbright Lectureship in 2000, a Rockefeller Humanities Fellowship in 2004, and grants from the National Science

Foundation and the National Institute of Occupational Safety and Health/CDC, among others.

4. In addition to my academic work, I have volunteered, served as expert witness, and testified about the effects of immigration on family life and economies, as well as on destination communities and local economies.
5. In February, 2011 I testified before the Georgia House Judiciary Non-Civil Committee on HB 87. My testimony was critical of certain aspects of the bill. After this testimony, I received an anonymous call at my office from a woman who referred to my testimony at the hearing and then accused me of instilling hatred in 'our' children.
6. This call highlighted for me the lengths that some people are willing to go when someone speaks out in favor of immigrants. My contact information was not given out at the committee hearing and yet someone took my name, found my contact information and called me. While I am relatively protected as a professor, I believe that if the name of an undocumented person were revealed related to this lawsuit, there would be similar and most likely worse negative attention that could even lead to physical harm.

7. I follow the public discourse on immigration in Georgia, and I am aware of the hateful and racist tone of much of the conversation. Readers' comments on internet journalism have taken an ugly tone when discussing immigrants and particularly Latinos. The anti-Latino and anti-immigrant discourse has worsened since the debate on HB 87 and its passage. The hateful discourse has become more unveiled and is expressed beyond the internet through television and radio personalities and political pundits as well. This anti-Latino and anti-immigrant rhetoric now permeates the public discourse generally in Georgia.
8. In the past, some of my foreign exchange students and students of color have been targets of anti-immigrant hostility. Their right to be present both on campus and in our society more broadly has been scrutinized and they have received disparaging comments such as "Why don't you go home?" I believe that HB87 has generally emboldened the public's willingness to openly question a person's presence or belonging based on appearance and/or manner of speaking.

9. The tension around the HB 87 has created an academic atmosphere where students are generally silent on the issue of immigration. I believe the climate of hate and hostility towards immigrants and the issue of immigration have stifled any conversation around the subject. I do not ask about documentation status in my classes but I believe that undocumented students fear being turned over to ICE if they were to speak out.
10. Through my studies I have observed that there is also anti-immigrant sentiment as it relates to agricultural labor and other low-wage work. This can be seen throughout the state, from agricultural areas around the South Georgia onion fields, to North Georgia's Carpet City (Dalton in Whitfield County) and in more urban areas among construction workers. The perceptions that immigrant laborers take American's jobs and drive down wages fuel this hostility and anti-immigrant sentiment. This hostility is often expressed in cultural terms, such as telling immigrants to go back to where they came from and blaming immigrants for the nation's economic downturn, even when research shows no ties. This anti-immigrant sentiment has

skyrocketed precisely as our nation has experienced the worse economic downturn since The Great Depression.

11. Based on my personal experience and observation of the discourse around immigration in Georgia, I fear that anyone publicly associated with the lawsuit against HB 87 will be targeted for backlash and retribution. This could include being a target of hate speech or hate actions as well as concrete repercussions on that individual's daily living, working, medical and residential life. The fear that this would create for these individuals would be extensive.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this _____ of June, 2011.



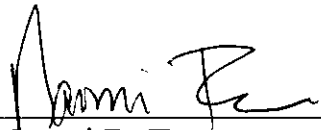
Martha W. Rees

3. Attached hereto as Exhibit A is a true and correct copy of the article “*Ga. Lawmaker: U.S. border agents should ‘shoot to kill’ to defend themselves*” published by the Atlanta Journal-Constitution on January 20, 2011, available at <http://www.ajc.com/news/ga-lawmaker-u-s-809971.html>.
4. Attached hereto as Exhibit B is a true and correct copy of the article “*Georgia illegal immigrant college student indicted*” published by Associated Press on February 13, 2011, available at http://onlineathens.com/stories/021311/new_784955598.shtml and the linked pages containing additional readers’ comments (i.e., <http://www.athenstalks.com/georgia-illegal-immigrant-college-student-indicted?page=1>, etc).

5. Attached hereto as Exhibit C is a true and correct copy of the blog post
“*Georgia shoots itself in the onion fields*” published by ajc.com on April 20,
2011, available at <http://blogs.ajc.com/cynthia-tucker/2011/04/20/georgia-shoots-itself-in-the-onion-fields/?cp=all>.

I declare under penalty of perjury that the foregoing is true and correct to the best
of my knowledge.

Executed this 2d day of June, 2011 in Atlanta, GA.



Naomi R. Tsu