ORIGINAL

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

JAN 04 2007

JAMES N. HATTEN, Clerk
By: Deputy Clerk

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

ROBERT STEWART, INC. d/b/a BELLS FERRY MOBILE HOME PARK,
JOHN DOE 1,
JOHN DOE 2,
JANE DOE 3,
JOHN DOE 4,
JOHN DOE 5,
JOHN DOE 6,
JOHN DOE 7,

Plaintiffs,

v.

CHEROKEE COUNTY, GEORGIA,

Defendant.

Civil Action Number: 1 07 CV 0015

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Robert Stewart, Inc. ("RSI") and John Does 1 through 5 ("Plaintiffs") bring this Complaint against Defendant Cherokee County, Georgia ("Cherokee County" or "the County") and state as follows:

INTRODUCTION

1.

On December 5, 2006, the Cherokee County Board of Commissioners passed Ordinance No. 2006-003 "to establish penalties for the harboring of illegal aliens in

Cherokee County" (the "Ordinance"). A copy of the Ordinance is attached hereto as Exhibit "A." The Ordinance is an attempt by Cherokee County to enact and enforce an impermissible local immigration law. The Ordinance will almost certainly be enforced in a discriminatory and disproportionate manner against legal immigrants and other persons of color whose ethnic origin may subject them and their immigration status to additional scrutiny because of stereotypes and prejudice. Consequently, Plaintiffs seek a Court order invalidating the Ordinance and prohibiting its enforcement.

2.

The Ordinance is facially invalid and should be struck down by the Court for numerous reasons. First, the Ordinance contravenes numerous provisions of the United States Constitution and corresponding provisions in the Georgia Constitution including: the Supremacy Clause which forbids municipalities from engaging in immigration regulation, legislating in fields reserved for the federal government or enforcing laws that burden or conflict with federal law; the Contracts Clause by interfering with lawful contractual obligations; the First Amendment right to freedom of speech and freedom of association; the Fourth Amendment right against unreasonable searches and seizures; the Fifth Amendment

right against self-incrimination; as well as the Equal Protection Clause and the Due Process Clause of the Fourteenth Amendment. Second, the Ordinance violates federal laws such as 42 U.S.C. § 1981 ("Equal Rights Under Law"), the Federal Fair Housing Act, and the Fair Employment and Fair Housing Act. Third, the Ordinance is in direct conflict with long standing Georgia law including the Georgia Landlord and Tenant Act and the Municipal Home Rule Act of 1965.

3.

The text of the Ordinance is nearly identical to ordinances passed by the City of Escondido, California, the City of Hazleton, Pennsylvania and the City of Valley Park, Missouri. Enforcement of the City of Escondido's ordinance was suspended when the Southern District of California granted plaintiffs' motion for a temporary restraining order pending the outcome of a lawsuit challenging the ordinance on several constitutional grounds. Garrett et al. v. City of Escondido, Case No. 06CV2434JAH *reported at* 2006 U.S. Dist. LEXIS 93453 (S.D. Cal. Nov. 20, 2006). However, on December 15, 2006, the City of Escondido entered into an agreement permanently preventing enforcement of the ordinance, resolving the lawsuit. Stipulation for Entry of Final Judgment and Permanent Injunction, Garrett, et al. v. City of Escondido, Case No. 06CV2434JAH (S.D. Cal. Dec. 15, 2006).

Enforcement of the City of Hazleton's ordinance was suspended by the Middle District of Pennsylvania on October 31, 2006 when it issued a temporary restraining order precluding such enforcement. Lozano et al. v. City of Hazleton, 2006 U.S. Dist. LEXIS 79301 (M.D. Pa. Oct. 31, 2006). And, enforcement of the City of Valley Park's ordinance was halted by the St. Louis County Circuit Court on September 27, 2006. Reynolds v. City of Valley Park, Case No. 06-CC-3802 (Circuit Court of St. Louis County Sept. 27, 2006).

4.

Cherokee County passed the Ordinance with the express goal of preventing landlords from allowing "illegal aliens" to occupy dwelling units. The Ordinance creates a new violation described as "harboring illegal aliens," and subjects landlords to significant penalties if they engage in "harboring" by renting to an "illegal alien" or allowing an "illegal alien" to occupy a dwelling unit. The Ordinance will have the effect of inducing landlords to deny housing to persons on the basis of race or national origin. Under the Ordinance, anyone who looks or sounds "foreign" – regardless of citizenship or immigration status – stands to be excluded from living in Cherokee County.

5.

The Ordinance is riddled with constitutional flaws and ignores the subtleties, complexities and primacy of federal immigration law. The Ordinance infringes on the federal government's authority over immigration in violation of the Supremacy Clause of the United States Constitution, not least because it invades a field that is exclusively occupied by the federal government through Congress' express regulation of, inter alia, "harboring" persons unlawfully present in the United States under 8 U.S.C. § 1324(a).

6.

The Ordinance violates landlords' constitutional rights by placing them in the impossible position of either violating the Ordinance and facing Draconian penalties, or violating federal and state laws by complying with the Ordinance. The Ordinance also violates due process by failing to require adequate or substantial proof before the County designates a tenant as an "illegal alien," failing to provide adequate procedures for landlords and tenants to contest such designation before the County imposes severe sanctions for alleged "harboring," and by imposing sanctions on landlords for alleged "harboring" before it is possible to correct any such violation in compliance with Georgia law. Landlords are also compelled to

submit an affidavit in violation of the self-incrimination privilege of the United States Constitution and the Constitution of the State of Georgia.

7.

Section 18-504(c) of the Ordinance requires property owners to maintain, at all times, personal information of their tenants regarding the tenants' immigration status. This section also compels that property owners make available their tenants' immigration status information upon demand by Cherokee County. Additionally, this section allows government agents to initiate an investigation of criminal activity without probable cause, merely with an allegation from any official, business entity or resident of the County.

8.

The Ordinance contemplates state action based on race and national origin, which violates the Equal Protection Clauses of the United States Constitution and the Constitution of the State of Georgia.

9.

Because the people most likely to lose their homes because of the Ordinance are Latinos – who as of 2005 comprise approximately 7.6% percent of the County's population – the Ordinance will have a disproportionate adverse impact on Latinos

and other minority communities and will tend to have a segregative effect on Cherokee County, in violation of multiple federal and state laws, including but not limited to, federal and state fair housing and anti-discrimination laws.

10.

The Ordinance is similarly preempted by the Constitution of the State of Georgia and the Municipal Home Rule Act of 1965, O.C.G.A. §§ 36-35-1 *et seq.* The Ordinance also directly conflicts with the Georgia Landlord and Tenant Act, O.C.G.A. §§ 44-7-1 *et seq.*, which sets out the specific grounds for eviction and dispossessory procedures. Landlords cannot comply with the Ordinance without violating Georgia law and their contracts with their tenants. By imposing a new basis for commencing eviction proceedings – the tenant's status as an "illegal alien" – not contained in Georgia law, the Ordinance invades the comprehensive state law adopted by the Georgia Legislature.

11.

Plaintiffs respectfully request the following relief: (1) that the Court enter an order declaring that the Ordinance is unconstitutional and unlawful; (2) that the Court grant Plaintiffs equitable relief by issuing a temporary restraining order and preliminary injunction, and a permanent injunction, against the enforcement of the

Ordinance; and (3) that the Court award Plaintiffs statutory and exemplary damages, including all costs and attorneys' fees incurred as a result of being forced to bring this action.

PARTIES, JURISDICTION AND VENUE

12.

Plaintiff RSI is a Georgia corporation doing business in Cherokee County, Georgia. RSI owns and operates multiple rental units in Cherokee County.

13.

RSI receives substantial rental income from its rental units in Cherokee County. RSI does not know its present tenants' immigration status, it is not capable of making such a determination, and, as a matter of policy, does not have any intention of inquiring into the immigration status of its tenants or tenant applicants. RSI has no intention of gathering any identity data required under the Ordinance to obtain a federal verification of immigration status of its tenants, nor does RSI intend to share such private information with Cherokee County even though RSI is under fear of penalty of criminal and civil sanctions if it does not comply with the Ordinance. (This assumes that RSI could determine what the necessary identity data would be to satisfy the Ordinance and that federal verification of a tenant's

immigration status could be obtained by Cherokee County -- two of many perplexing hurdles for landlords that the Ordinance creates.) RSI rents its units under written lease agreements that expressly state the terms and conditions under which RSI can evict a tenant or terminate a tenancy. RSI's lease agreements do not provide that RSI can evict any tenant on the ground that the tenant is an "illegal alien," nor do the lease agreements provide for an eviction proceeding that is five (5) business days or less.

14.

RSI knows that its tenants are visited by guests and family members. RSI has no reasonable mechanism available to determine whether through such visitations its tenants are "suffering" or "permitting" RSI's rented premises to be "occupied" by persons who are defined to be "illegal aliens" under the Ordinance, and whether RSI could be punished or sanctioned by Cherokee County under the Ordinance as a result.

15.

RSI has a well-founded fear that the Ordinance will be enforced against it and that it will suffer substantial adverse consequences if the Ordinance is not declared invalid and permanently enjoined. Unless the Court grants it the relief

sought, RSI is subject to irreparable harm by, inter alia, being subject to significant monetary fines for violating the Ordinance, losing and/or being refused business permits or licenses, being unable to collect rent on any of its rental units, and facing criminal misdemeanor liability for multiple violations since a separate violation occurs under the Ordinance for every day that an adult "illegal alien" tenant or occupant remains in a dwelling unit after notice from Cherokee County that the specified time has passed to "correct the violation."

16.

Unless the Ordinance is permanently enjoined and declared invalid, the principals of RSI may also be exposed to the imminent threat of irreparable harm for which there is no adequate remedy at law in terms of personal liability if, in attempting to comply with the Ordinance, RSI takes adverse action against an individual whom the County claims may be an "illegal alien" under the Ordinance, where such action is prohibited by federal or state law.

17.

The following Plaintiffs ("Tenant Plaintiffs") rent dwelling units in Cherokee County under otherwise valid and binding leases and have a well-founded fear that they will be classified as "illegal aliens" under the Ordinance:

a. On personal knowledge, plaintiff John Doe 1 came to the United States from Mexico in or about 2000. He has minor children who are United States citizens. He rents a mobile home space in unincorporated Cherokee County, which he has occupied continuously since approximately 2003. His children, who are U.S. citizens, live with him and attend school in Cherokee County. He is gainfully employed.

b. On personal knowledge, plaintiff John Doe 2 came to the United States from Mexico in or about 1996 with a tourist visa. He rents a mobile home space in unincorporated Cherokee County, which he has occupied continuously since approximately 2003. He is gainfully employed.

c. On personal knowledge, plaintiff Jane Doe 3 came to the United States from Mexico in or about 2001. She has minor children who are United States citizens. She rents a mobile home space in unincorporated Cherokee County, which she has occupied continuously since approximately 2005. Her four minor children, three of whom are United States citizens, live with her and attend school in Cherokee County. She is gainfully employed.

d. On personal knowledge, plaintiff John Doe 4 came to the United States from Mexico in or about 2002 with a tourist visa. He has a minor child who is a United States citizen. He rents a mobile home space in unincorporated Cherokee County, which he has occupied continuously since approximately 2003. His two minor children, one of whom is a United States citizen, live with him and attend school in Cherokee County. He is gainfully employed.

e. On personal knowledge, plaintiff John Doe 5 came to the United States from Mexico in or about 1999. He rents a mobile home space in unincorporated Cherokee County, which he has occupied continuously since approximately 2003. His minor children live with him and attend school in Cherokee County. He is gainfully employed.

f. On personal knowledge, plaintiff John Doe 6 came to the United States from Mexico in or about 1997. He has minor children who are United States citizens. He rents a mobile home space in unincorporated Cherokee County, which he has occupied continuously since approximately 2001. His minor children, who are United States citizens, live with him and attend school in Cherokee County. He is gainfully employed.

g. On personal knowledge, plaintiff John Doe 7 came to the United States from Mexico in or about 1999. He has minor children who are United States citizens. He rents a mobile home space in unincorporated Cherokee County, which he has occupied continuously since approximately 2005. His minor children, who are United States citizens, live with him and attend school in Cherokee County. He is gainfully employed.

18.

If the Ordinance is not declared invalid and permanently enjoined, enforcement of the Ordinance will pose an imminent threat of irreparable harm to the Tenant Plaintiffs and/or members of their families for which there is no adequate remedy at law by subjecting them to, inter alia, the threat of eviction from their homes and the inability to locate local substitute housing or for their United States citizen children to attend school in Cherokee County.

19.

RSI seeks to provide housing, and to continue to provide housing, to persons

without regard to the Ordinance. The Tenant Plaintiffs seek to remain in occupancy and quiet enjoyment of their rental units in Cherokee County that they have leased and occupied for years. Both RSI and the Tenant Plaintiffs seek to continue receiving the benefits of their pre-existing contract and property rights. If not declared invalid and permanently enjoined, the Ordinance will adversely impact both RSI and the Tenant Plaintiffs in their ability to pursue their objectives.

20.

Defendant Cherokee County is a County existing under Georgia law, with its principal location at 90 North Street, Suite 310, Canton, Georgia 30114, Cherokee County, Georgia. Cherokee County may be served with process by serving the current Chairman of the Board of Commissioners, Leavitt Bissell "Buzz" Ahrens, at 90 North Street, Suite 310, Canton, Georgia 30114, Cherokee County, Georgia, and by serving the acting County Attorney, Angela E. Davis, at Jarrard & Davis, LLP, 105 Pilgrim Drive, Suite 200, Cumming, Georgia 30040.

21.

Cherokee County adopted the Ordinance acting through its duly authorized agents, the Cherokee County Board of Commissioners. Members of the enacting Board of Commissioners included Chairman J. Michael Byrd, as well as

Commissioners Harry Johnston, Jim Hubbard, Karen Mahurin and Derek V. Good.

22.

At all times relevant to this Complaint, Cherokee County and its officials, employees and agents were acting under color of state law.

23.

This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiffs' causes of action under the United States Constitution, 42 U.S.C. §§ 1981 and 1983, the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has supplemental jurisdiction over Plaintiffs' causes of action under Georgia law pursuant to 28 U.S.C. § 1367.

24.

This Court has personal jurisdiction over Defendant Cherokee County.

25.

Venue is proper in the Northern District of Georgia under 28 U.S.C. § 1391(a) where Cherokee County is subject to personal jurisdiction within the Northern District of Georgia, and the events which give rise to this action occurred entirely within the Northern District of Georgia.

STATEMENT OF FACTS

A. The Ordinance

26.

On November 7, 2006, at a Cherokee County Board of Commissioners meeting, Commissioner Karen Mahurin introduced the concept of adopting the Ordinance to the Cherokee County Commission. Commissioner Mahurin stated that she was aware of the Escondido, California ordinance which penalized landlords who rented housing to "illegal aliens" and provided for enforcement through the local Marshal's Office. Commissioner Mahurin made a motion to request a board-initiated public hearing to be set for comment at the next meeting on November 21, 2006 to discuss such an ordinance. Commissioner Derek Good then seconded Commissioner Mahurin's motion and the resulting vote was for unanimous approval to hold the public hearing. At the Board of Commissioners' meeting on November 21, 2006, 13 persons spoke in opposition to the Ordinance and 9 spoke in favor.

27.

The Board of Commissioners considered the Ordinance amid a passionate national debate over federal immigration policy. Moreover, the Commissioners

enacted the ordinance after two federal courts and one state court issued Temporary Restraining Orders preventing cities from enforcing local ordinances which were substantially similar to the Cherokee County Ordinance. Judge James M. Munley of the United States District Court for the Middle District of Pennsylvania issued a restraining order against the City of Hazelton, Pennsylvania on October 31, 2006. Judge Barbara Wallace of the Circuit Court for the County of St. Louis, Missouri issued a restraining order against the City of Valley Park, Missouri on September 27, 2006. On November 20, 2006—just two weeks before the Cherokee County Board of Commissioners enacted the ordinance—Judge John A. Houston of the Southern District of California, issued a restraining order against the City of Escondido, California.

28.

Any of the following activities would result in a violation of the Ordinance, if done with "knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, unless such harboring is otherwise expressly permitted by federal law":

1. "to let, lease or rent a dwelling unit to an illegal alien";

2. "to suffer or permit the occupancy of the dwelling unit by an illegal

alien";

3. a failure to "provide the County with identity data needed to obtain a federal verification of immigration status" of a tenant within five business days after receiving written notice from the County demanding whatever information it asserts is necessary to comply with this demand;

4. a failure to correct a violation within five business days after receiving written notice from the County that a violation occurred.

29.

Further, should a landlord actually remove an "illegal alien" from a rental property, the denial or suspension of the landlord's business license continues until one day after the landlord (or a representative thereof) submits an affidavit to the County not only confirming that the violation has ended, but also including the new "address and other adequate identifying information for the illegal aliens who were the subject of the complaint." Providing such information will likely prompt another round of charges until the "illegal alien" moves out of Cherokee County. As written, the Ordinance only applies to landlords subject to § 18-37 of the Cherokee County Code of Ordinances, not homeowners. It requires landlords to

evict tenants upon written notice from the County that an "illegal alien" is renting or staying in one of their rental properties.

30.

The Ordinance would deny or suspend the business license of a rental property owner who is alleged to be in violation of the Ordinance, without any hearing before such denial or suspension. This denial or suspension would preclude the landlord from collecting any rent, payment, fee, or any other form of compensation from any dwelling unit owned by the landlord in Cherokee County. More than one violation – which as defined in the statute would result from not taking action more than one day after required to do so under the terms of the Ordinance (since each day that passes and each adult alien "harbored" constitutes a separate violation) – would result in a monetary penalty of up to $1,000.00 per violation per day, or a jail term of sixty days per violation per day, or both.

31.

The Ordinance does not provide any allowance for a pre-determination hearing for landlords before the suspension of their business license. The Ordinance also does not provide a tenant or subtenant that the County believes is an "illegal alien" any notice or opportunity to be heard as to their right to be present in

the United States. Nor does the Ordinance provide any procedure by which a landlord or a tenant can appeal the revocation of a business license or the designation of a tenant as an "illegal alien."

B. Intent and Effect of the Ordinance

32.

The Ordinance's intent and effect is to regulate immigration within Cherokee County in a manner not contemplated or approved by the federal government.

33.

The Ordinance defines a group of individuals as "illegal aliens" and sets forth an unfathomable scheme intended to eliminate this group of individuals from Cherokee County by forbidding them from renting or occupying rental property. The Ordinance also attempts to force landlords into becoming a posse compelled to enforce the law. This is all done with the intent and effect of forcing immigrants to leave Cherokee County based on the allegedly "valid complaint" of any person – government officials, disgruntled neighbors, persons with their own political agenda who have already expressed an intent to be vigilante reporters, or even a landlord that wishes to get rid of a tenant subject to a valid lease agreement.

34.

If the Ordinance is allowed to go into effect and is enforced, it will be difficult, if not impossible, for anyone who is potentially perceived to be an "illegal alien" to rent or occupy a dwelling unit in Cherokee County. Landlords can be expected to choose to avoid the burden of compliance with the Ordinance and the risk of noncompliance by refusing to enter into leases with anyone whom they perceive potentially to be an "illegal alien" under the Ordinance.

35.

Cherokee County based the Ordinance on "findings" not supported by any empirical data, among them: (1) that "the harboring of illegal aliens in dwelling units in the County, and crime committed by illegal aliens, harm the health, safety and welfare of legal residents in the County"; (2) that "[b]ecause such individuals are not in this country lawfully, there is an increased chance that they will reside in dwelling units without typical leasing, payment and other tenancy arrangements that enable the civil and regulatory processes if this County to be effective"; (3) that "because of the lack of tenancy arrangements which are subject to normal civil and regulatory processes (such as written leases, records of rent receipts, and related documentation which normally accompany a tenancy arrangement) there is a

greater chance that such individuals will occupy residential units in excessively large numbers, or under living conditions, that do not meet applicable building and health safety codes. This creates unanticipated burdens on the units and the public infrastructure supporting such dwellings." The County offers absolutely no data or facts to support these overly-conclusive finding. The County does not provide or cite to any impartial study or information that could reasonably support these broad generalizations. In fact, the County's articulated rationale supports the opposite position, namely, since the Ordinance will forbid an entire class of persons from entering into tenancy agreements, "there is an increased chance that they will reside in dwelling units without typical leasing, payment and other tenancy arrangements that enable the civil and regulatory processes of this County to be effective."

36.

The Ordinance compels a landlord to disclose unspecified "identity data" regarding its tenants to the County, solely on the basis of an unsworn and unverified complaint to the County, even if the landlord has no reason to believe that its tenants may be "illegal aliens" and even if the information the landlord possesses is protected from disclosure under federal and state law. The Ordinance thus exposes landlords to a well-founded fear of civil and criminal liability for violation of

federal and state laws prohibiting disclosure of tenants' private information.

37.

The Ordinance does not define the term "illegal alien" other than making a general reference to federal immigration laws, which include very complex definitions for "immigrants" but no definition of "illegal alien." The Ordinance seeks to define an "illegal alien" by requesting the federal government to verify the legal status of a tenant. However, the federal government's immigration resources are already overburdened and may not (or cannot) provide that verification to the County. Without the ability to obtain expeditious and accurate verifications of immigration status, RSI and other similarly situated landlords will have to guess the tenant's or prospective tenant's immigration status and, undoubtedly, will base such a guess upon improper gauges such as skin color, foreign accents, and surnames.

38.

The Ordinance actually invites such racial profiling: only "a complaint which alleges a violation *solely or primarily* on the basis of national origin, ethnicity, or race shall be deemed invalid" (emphasis added), whereas those based partially on such characteristics and stereotypes – which bear no relevance to a person's immigration status – will presumably be deemed valid.

39.

Persons who lack official documents such as a United States birth certificate, passport or current visa, but who are lawfully permitted to reside and work in the United States, may be deemed "illegal aliens" due to the inability of Cherokee County officials and landlords to accurately identify and interpret specialized immigration documents. The Ordinance also fails to delineate what information would be adequate and/or necessary to "verify" a tenant's immigration status, particularly if the information to be provided by the landlord is protected from disclosure under federal and state privacy laws. Notably, the Ordinance also lacks any procedure providing for notice or an opportunity to be heard by any tenant who believes his status has been improperly adjudged.

40.

The Ordinance requires the immediate suspension of a landlord's business license where the landlord "harbors illegal aliens." Yet, the Ordinance fails to specify the precise conduct that constitutes "harboring." For example, is "harboring" the act of renting a dwelling unit? Could "harboring" be the mere presence and occupancy of a guest? What if one of the tenants is a lawful immigrant or even a United States citizen (such as a minor child) and one is not?

What happens if the landlord is informed that the tenant is an illegal immigrant -- must the landlord immediately commence eviction proceedings under the Ordinance and, if so, how is the landlord to do this in compliance with Georgia law? The Ordinance does not say.

41.

Moreover, if the landlord receives a demand for information from the County, the landlord automatically violates the Ordinance if he fails to provide such information within five (5) days, even if he cannot obtain or provide such information within five (5) business days. When does the five business days begin to run -- when the demand for information is issued by the County, or when the demand for information is actually received by the landlord? What is a landlord to do if the tenant simply refuses to provide such identifying information to the landlord? How can a landlord lawfully compel a tenant to provide such information? What if the landlord only has possession of a tenant's information protected from disclosure under the Fair Credit Reporting Act? What if the landlord is presented with some form of documentation indicating the tenant is not an "illegal alien" but the federal government does not confirm that fact? Is a tenant presumptively an "illegal alien" and the landlord violating the statute unless

eviction proceedings are completed in five business days, regardless of Georgia's Landlord and Tenant Act? What if the federal government either will not or cannot provide verifying information to the County? The Ordinance leaves these threshold questions unanswered.

C. Federal Preemption

42.

The power to regulate immigration is undeniably exclusively federal and derives from the constitutional grant of power to Congress to "establish a uniform Rule of Naturalization," U.S. CONST. Art. I, § 8, cl. 4., and to "regulate Commerce with foreign Nations." Id., cl. 3. Additionally, the United States Supreme Court has held that the federal government's power to control immigration is inherent in the nation's sovereignty.

43.

Under its exclusive power over matters of immigration, the federal government has established a comprehensive system of laws, regulations, procedures, and administrative agencies that determine, subject to administrative and judicial review, whether and under what conditions a given individual may enter, stay in, and work in the United States.

44.

In addition to provisions that directly regulate immigrants' entry and behavior, federal immigration laws also include provisions directed at other classes of individuals, including those who harbor individuals not lawfully in the United States.

45.

The federal government has also chosen to allow certain categories of non-citizens, and certain individual non-citizens, to remain in the United States, even though such non-citizens may not have valid immigrant (permanent) or non-immigrant (temporary) status and/or may be removable under the federal Immigration and Nationality Act ("INA").

46.

These laws, procedures, and policies created by the federal government regulate immigration and confer rights in a careful balance reflecting the national interest, and have been found to preempt any contrary state laws.

47.

The Ordinance attempts to create a system whereby a final determination that a tenant is or is not an "illegal alien" be made by the County solely by attempting to ascertain from the United States Citizen and Immigration Service ("USCIS"), under 8 U.S.C. § 1373(c), whether the tenant is an alien who is not lawfully present in the United States. However, this process is not how a determination of legal status is made by the federal government, and the federal immigration system does not produce a final determination of immigrant status at the request of a local government.

48.

Due to the Ordinance's definition of "illegal alien" and the lack of procedural safeguards, some persons who are permitted by the federal government to live and work in the United States will nevertheless be effectively barred from residing in Cherokee County.

49.

The Ordinance is preempted by federal law because it is an impermissible attempt to regulate immigration and because it conflicts with and interferes with Congress' comprehensive scheme of immigration regulation.

D. Discriminatory Impact of Ordinance

50.

The Ordinance has a disproportionate discriminatory impact on the local Latino community, which constitutes approximately 7.6% of the County's population. Landlords likely will focus their attention on people who look or sound Latino, rather than other non-Latino prospective or actual tenant[s] who may be undocumented immigrants.

51.

Additionally, contrary to popular belief, the majority of the undocumented population is part of a mixed-status family, with a significant percentage (over 25%) having children who are United States citizens and who have a right to live wherever they want to and go to school wherever they choose. The effect of the Ordinance is to punish such United States citizens and deprive them of their right to access the housing and schools of their choice, in violation of both federal and state law. (*See* GA. CONST. Art. I, § I, Para. VII).

E. Federal Fair Housing Act Violations

52.

The Ordinance violates both the federal and state Fair Housing Acts and

effectively mandates that landlords do the same. 42 U.S.C.A. § 3604 (b), O.C.G.A § 8-3-202 (2). Both acts prohibit discrimination against any person in the terms, conditions, or privileges of the rental of a dwelling. By requiring landlords to inquire into both the national original of their current and prospective tenants and the legal status of that origin, the Ordinance violates both federal and state Fair Housing laws.

53.

Before the filing of this action, Plaintiffs made repeated requests of Defendants to suspend or repeal the enactment of this Ordinance. Such requests have been refused. Thus, this action is the only means available to Plaintiffs to obtain the requested relief. Unless temporarily, preliminarily, and permanently enjoined, the Ordinance will cause the Plaintiffs irreparable harm for which there exists no adequate remedy at law.

SPECIFIC CAUSES OF ACTION

COUNT I - BREACH OF THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION

54.

Plaintiffs incorporate by reference the allegations of paragraphs 1 to 53 as if fully set forth herein.

55.

Article VI, Section 2, of the United States Constitution provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

56.

The Supremacy Clause mandates that federal law preempts any state regulation of any matter over which Congress has expressly or impliedly exercised exclusive authority or which is constitutionally reserved to the federal government.

57.

The power to regulate immigration is a matter over which the federal government has exclusive authority.

58.

The Ordinance is a law purporting to regulate immigration and the incidents thereof by focusing exclusively on preventing the "harboring" of "illegal aliens." This issue is specifically regulated by the federal government under, inter alia, 8 U.S.C. § 1324(a), which is part of the federal government's comprehensive statutory and regulatory scheme governing immigration.

59.

The Ordinance attempts to usurp the federal government's exclusive power over immigration and naturalization and its power to regulate foreign affairs.

60.

The Ordinance is preempted because its regulatory scheme attempts to legislate in fields occupied by the federal government.

61.

The Ordinance threatens the uniformity and primacy of the federal immigration system and conflicts with federal immigration law.

62.

The Ordinance thus violates the Supremacy Clause, on its face or as applied.

63.

Therefore, Plaintiffs are entitled to declaratory and injunctive relief invalidating the Ordinance on the grounds that the Ordinance violates the Supremacy Clause of the United States Constitution.

COUNT II - VIOLATION OF THE CONTRACTS CLAUSE OF THE UNITED STATES CONSTITUTION

64.

Plaintiffs incorporate by reference the allegations of paragraphs 1 to 63 as if

fully set forth herein.

65.

The Contracts Clause of the United States Constitution provides that no state shall pass a "law impairing the obligation of contracts." (U.S. Const. Art. I, § 10, Cl. 1). Article I prohibits States from enacting laws that retroactively impair contractual obligations.

66.

Section §18-503 of the Ordinance make it unlawful for any landlord to knowingly, or in reckless disregard of the fact, harbor an "illegal alien," and mandates landlords evict any "illegal alien" within five business days after receipt of a notice of violation from the County to avoid the denial or suspension of their business licenses and the imposition of additional penalties.

67.

Further, under §18-504 of the Ordinance, if a landlord is unsuccessful in evicting the tenant within five business days, the landlord's business license is denied or suspended and the landlord is not permitted to collect any rent, payment, fee, or another form of compensation from, or on behalf of, any tenant or occupant in the dwelling (or any other dwelling covered by the landlord's business license)

until the landlord is no longer in violation of the Ordinance, i.e., has evicted the tenant.

68.

For the stated reasons, the Ordinance fails to have a significant and legitimate public purpose.

69.

For the stated reasons, the Ordinance is not based upon reasonable conditions and is not of a character appropriate to the stated public purpose.

70.

RSI and Tenant Plaintiffs have valid lease and rental agreements for residential rental property in Cherokee County. Some of these agreements provide for the automatic renewal of the lease term upon the expiration of the agreement. None of these contracts allow a landlord to evict a tenant based upon "harboring of illegal aliens" or the fact the tenant is an "illegal alien." Therefore, despite the fact that the Ordinance purports to apply only to leases entered on or after January 1, 2007, the Ordinance has impermissible retroactive application to those lease agreements with automatic renewal provisions.

71.

The eviction of a tenant or occupant within ten business days, under conditions not specified in lease agreements, would cause RSI and other landlords to breach those agreements. Such action also deprives Tenant Plaintiffs of their contractual rights to occupancy and quiet enjoyment of their leased dwelling units. Therefore, the Ordinance violates the Contracts Clause of the United States Constitution.

72.

Additionally, the Ordinance also violates the Contracts Clause of the United States Constitution because § 18-504 of the Ordinance precludes RSI and other landlords from receiving rents under each and every existing lease or rental agreement should the landlord fail to timely evict a purported "illegal alien" from a single dwelling unit.

73.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that the Ordinance violates the Contracts Clause of the United States Constitution.

COUNT III - VIOLATION OF THE FIRST AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 16 OF THE CONSTITUTION OF THE STATE OF GEORGIA

74.

Plaintiffs incorporate by reference the allegations of paragraphs 1 to 73 as if fully set forth herein.

75.

A major purpose of the First Amendment of the United States Constitution and of Article I, Section 1, Paragraphs 5 and 16 of the Georgia Constitution is to protect the free discussion of public issues and to avoid compulsion of speech by the government -- particularly speech that may incriminate a person and subject them to possible criminal prosecution.

76.

By offering such protection, the First Amendment to the United States Constitution serves to ensure that Plaintiffs can effectively participate in and contribute to our system of self-government.

77.

The Ordinance, under §§ 18-503 and 18-504, compels landlords such as RSI to speak by requiring the landlords to provide an undisclosed quantity and quality of information (expressed in § 18-503 as "identity data needed to obtain a federal

verification of immigration status" and expressed in § 18-504 as "other adequate identifying information") about their tenants to Cherokee County, or else incur significant financial penalties and criminal sanctions. Much of this "identity data" may be protected from disclosure by federal and state privacy laws, including without limitation, the Fair Credit Reporting Act.

78.

Because the Ordinance regulates speech by compelling landlords to provide information to the government under threat of criminal sanctions, both the First Amendment and the Equal Protection Clause and Article I, Section 1, Paragraph 16 of the Constitution of the State of Georgia mandate that the Ordinance be narrowly tailored to serve substantial governmental interests, and the justifications offered for any distinctions drawn must be strictly scrutinized.

79.

The Ordinance has the effect of chilling speech between landlords and their tenants, for fear that a landlord's acquiring too much information would expose the landlord to liability when such information is demanded by the County.

80.

The County does not have a compelling, or even rational, state interest to require such speech. The Ordinance is not narrowly tailored to justify the requirements for compelling such speech, and is not the least restrictive means for the County to address the concerns delineated in the Ordinance's "findings" section. The Ordinance's provisions overall serve no substantial local governmental interest and are not narrowly tailored to affect state interests.

81.

The Ordinance also deprives Tenant Plaintiffs and their families of their First Amendment right to free association preventing them from sharing a deep attachment and experience with family members who share their home, and also by preventing them from living in certain geographic areas, to wit, unincorporated Cherokee County.

82.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that the Ordinance violates the First Amendment and Article I, Section 1, Paragraph 16 of the Constitution of the State of Georgia.

COUNT IV - VIOLATION OF EQUAL PROTECTION PROVIDED IN THE UNITED STATES CONSTITUTION AND THE GEORGIA CONSTITUTION

83.

Plaintiffs incorporate by reference the allegations of paragraphs 1 to 82 above as stated.

84.

The Ordinance provides that only "a complaint which alleges a violation *solely or primarily* on the basis of national origin, ethnicity, or race shall be deemed invalid" (emphasis added), but permits enforcement of complaints – and denial of housing – based in part on national origin, ethnicity, or race.

85.

The Ordinance also impermissibly discriminates between homeowners not subject to § 18-37 of the Cherokee County ordinance who "harbor illegal aliens" and landlords subject to § 18-37 who rent or lease to "illegal aliens" or have tenants who "harbor illegal aliens."

86.

The Ordinance is thus invalid under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and Article 1, Section 1, Paragraph 2 of the Georgia Constitution.

87.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that the Ordinance violates both the United States Constitution's Equal Protection Clause of the Fourteenth Amendment, and the Equal Protections Clause of the Georgia Constitution.

COUNT V - VIOLATION OF PROCEDURAL DUE PROCESS

88.

Plaintiffs incorporate by reference the allegations of paragraphs 1 to 87 as if fully set forth herein.

89.

The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits Cherokee County from depriving any person of life, liberty, or process without due process of law.

90.

RSI has a liberty and/or property interest in leasing its rental units and receiving income from such leases.

91.

The Ordinance deprives RSI of such interests without due process of law because it is impossible for it to comply with the Ordinance without violating federal and state law, including, but not necessarily limited to, federal and state laws prohibiting disclosure of tenants' private information and the Georgia Landlord and Tenant Act.

92.

The Ordinance also requires RSI, upon written notice by the County that a violation has occurred, to within five business days: (1) provide notice to its tenant to vacate the premises; (2) institute an unlawful detainer action; (3) prevail in that action; (4) evict the "illegal alien;" and (5) provide a sworn affidavit stating not only that the violation has ended, but also the new "address and other adequate identifying information for the illegal alien" so that such information can be forwarded to federal authorities.

93.

The Ordinance does not require Cherokee County to sustain any burden to prove by sufficiently probative evidence that RSI is, in fact, renting a dwelling unit to an alleged "illegal alien" before the County deprives the RSI of its liberty and/or property interests.

94.

The Ordinance permits Cherokee County to suspend a RSI's business license, and thus deprive RSI of its liberty and/or property interest in retaining such license, conducting a rental property business, and/or receiving income from rental property, without any hearing or proceedings before such suspension and deprivation occurs. The Ordinance also fails to provide a procedure by which RSI (or any other aggrieved landlord) can file an appeal of the revocation of is business license.

95.

The Ordinance also provides no due process within its statutory scheme for any person alleged to be an "illegal alien" to challenge such a designation. The Ordinance also fails to provide a procedure by which any alleged "illegal alien" can file an appeal of the County's determination of that tenant's legal status.

96.

The Ordinance has no relation to any legitimate local government purpose. Cherokee County does not have any compelling state interest or rational basis for its enactment, and the Ordinance is not the least restrictive means for the County to address the concerns delineated in the Ordinance's "findings" section.

97.

Consequently, the Ordinance, on its face or as applied, violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

98.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that the Ordinance violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

COUNT VI - VIOLATION OF 42 U.S.C. § 1981

99.

Plaintiffs incorporate by reference the allegations of paragraphs 1 to 98 as if fully set forth herein.

100.

The fundamental right to contract and to full and equal benefit of all laws is

codified at 42 U.S.C. § 1981, as amended by Section 101 of the Civil Rights Act of 1991.

101.

Under 42 U.S.C. § 1981, "[a]ll persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other."

102.

Section 1981 prohibits discrimination under the color of law based on alienage and race.

103.

Congress deliberately used "all persons" instead of "citizens" to reflect the language of the Fourteenth Amendment that extended the guarantee of equal protection under the laws to "any person within the jurisdiction of the United States."

104.

Plaintiffs are entitled to the protections and benefits afforded by § 1981, including Plaintiffs categorized as "illegal aliens" under the Ordinance.

105.

Sections 18-503 and 18-504 of the Ordinance seek to proscribe the execution of contracts with "illegal aliens," or the collection of rents, even owed by tenants who are lawfully in the United States, if a landlord fails to evict a tenant or occupant Cherokee County deems to be an "illegal alien."

106.

By enacting the Ordinance, Cherokee County has violated Plaintiffs' fundamental right to contract on an equal basis.

107.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that the Ordinance violates 42 U.S.C. § 1981.

COUNT VI - VIOLATION OF THE FEDERAL FAIR HOUSING ACT

108.

Plaintiffs incorporate by reference the allegations of paragraphs 1 to 107 as if fully set forth herein.

109.

The Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, prohibits housing practices that discriminate on the basis of race, color, religion, sex, familial status, national origin, or handicap.

110.

Sections 18-503 and 18-504 of the Ordinance impose on RSI and other landlords who rent to "illegal aliens" the automatic deprivation of the right to collect any monies from any tenants due to the automatic suspension of the landlord's business license, even from tenants who are lawfully in the United States.

111.

Cherokee County has injured RSI and the Tenant Plaintiffs by threatening them with injury in violation of the Fair Housing Act by committing the following discriminatory housing practices:

To otherwise make unavailable or deny a dwelling because of race, color, or national origin, in violation of 42 U.S.C. § 3604(a):

a. To discriminate against any person in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities therewith, because of race, color, or national origin, in violation of 42 U.S.C. § 3604(b);

b. To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to rental of a dwelling, that indicates any preference, limitation, or discrimination, based on race, color, or national origin, or an intention to make any such preference, limitation, or discrimination, in violation of 42 U.S.C. §3604(c); and

c. To coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, any of the rights granted by the FHA, in violation of 42 U.S.C. §3617.

112.

Additionally, 42 U.S.C. § 3615 provides:

"Nothing in this subchapter shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this subchapter shall be effective, that grants, guarantees, or protects the same rights as are granted by this subchapter; *but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this subchapter shall to that extent be invalid.*" (Emphasis added.)

113.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that the Ordinance violates the Federal Fair Housing Act.

COUNT VIII - VIOLATION OF FAIR EMPLOYMENT AND HOUSING ACT, O.C.G.A. § 8-3-200 *ET SEQ.*

114.

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 113 as if fully set forth herein.

115.

Cherokee County has injured Plaintiffs in violation of the Georgia Fair Employment and Housing Act, O.C.G.A. § 8-3-200, *et seq.* by committing the following discriminatory housing practices:

a. Refusing to sell or rent after the making of a bona fide offer, or refusing to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, disability, familial status, or national origin;

b. Discriminating against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, disability, familial status, or national origin;

c. Making, printing, or publishing or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling, that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination;

d. Representing to any person because of race, color, religion, sex,

disability, familial status, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available; or

e. For profit, inducing or attempting to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, or national origin or with a disability.

116.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that the Ordinance violates the Georgia Fair Employment and Housing Act.

COUNT IX - VIOLATION OF THE GEORGIA CONSTITUTION

117.

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 116 as if fully set forth herein.

118.

Cherokee County has violated O.C.G.A. § 8-3-200 *et seq.*, by adopting an Ordinance that has the effect of discriminating against persons as a result of their race, color, ancestry or national origin.

119.

Cherokee County's conduct as alleged constitutes a denial of full and equal access to housing accommodations to persons within the meaning of O.C.G.A. § 8-

3-201.

COUNT X - STATE LAW PREEMPTION

120.

Article 3, Section 6, Paragraph 4 of the Georgia Constitution provides that "[l]aws of a general nature shall have uniform operation throughout this state and no local or special law shall be enacted in any case for which provision has been made by an existing general law, except that the General Assembly may by general law authorize local governments by local ordinance or resolution to exercise police powers which do not conflict with general laws."

121.

While municipalities may exercise police powers, Cherokee County may only enact ordinances within the parameters of the laws established by Georgia's Legislature.

122.

Cherokee County has violated these police powers by enacting an Ordinance that stands in direct conflict with federal and state laws. *See* GA. CONST. Article 3, Section 6, Paragraph 4.

123.

First, the Ordinance attempts to regulate immigration, a power that falls exclusively to the federal government. The federal government has a comprehensive scheme governing immigration, including the INA, 8 U.S.C. 1151 *et seq.* Because the Ordinance attempts to legislate in a field extensively occupied by the federal government, it exceeds the authority granted Cherokee County by Art. XI, § 7 of the Georgia Constitution.

124.

Second, the Ordinance provides that a landlord must evict an "illegal alien" tenant within five business days. This provision conflicts with the Georgia Landlord and Tenant Act, particularly O.C.G.A. § 44-7-50, which prescribes the notice requirements and timetables required to evict or dispossess a tenant. Compliance with the Ordinance is not possible without violating the provisions of the Georgia Landlord and Tenant Act. *See* O.C.G.A. § 44-7-1 *et seq.* As such, the Ordinance constitutes a violation of the authority granted Cherokee County under Article XI, §7 of the Georgia Constitution.

125.

Third, the Ordinance impermissibly attempts to create a new circumstance by

which a landlord may disposess a tenant. Section 44-7-50 of the Georgia Code specifies only three circumstances under which a tenant may be dispossessed: (1) if the tenant is holding over and beyond the term of the lease; (2) if the tenant fails to pay rent when due; or (3) if the landlord desires possession of the premises held by a tenant at will or a tenant at sufferance, whether under contract of rent or not. None of these circumstances include or refer to a lack of United States citizenship or lawful or unlawful presence in the United States. Cherokee County's attempt to add an additional circumstance by which a landlord may disposess a tenant conflicts with O.C.G.A. § 44-7-50 and therefore is a violation of the authority granted the County by Article XI, §7 of the Georgia Constitution.

126.

To constitute a valid exercise of Cherokee's police power, the Ordinance must relate to and be in furtherance of the public health, safety and welfare that are matters of local concern, and the means that the County employs to further such health, safety and welfare must not be highly unreasonable or arbitrary.

127.

Cherokee's failure to properly assess the existence of a threat to public safety or welfare before enacting the Ordinance is an additional abuse of the County's

police powers.

128.

Before enacting the Ordinance, the Cherokee County Board of Commissioners failed to conduct any analysis of the criminal, fiscal, cultural, or other challenges facing Cherokee County to determine if: (a) any actual problem existed; or (b) what measures were necessary to abate such problems, if any. Cherokee County claims that "illegal aliens" do not report substandard housing conditions and occupy units in numbers beyond occupancy limits. Nowhere in the Ordinance record, however, are there any statistics or evidence to support the claim that "illegal aliens" have contributed significantly, if at all, to any real or perceived problems in Cherokee County.

129.

With no evidence presented in the Ordinance's record that "illegal aliens" contribute to the stated problems facing Cherokee County's housing community, Cherokee County cannot claim that an ordinance restricting "illegal aliens" from renting homes in the County is related to and in furtherance of the public safety and welfare of Cherokee County.

130.

The decision to ban all "illegal aliens" from renting in Cherokee County is a decision influenced by prejudice that has no basis in proven fact. It is palpably unreasonable, unduly oppressive, and wholly arbitrary that the Cherokee County Board of Commissioners has selected "illegal aliens" as the scapegoat for the County's ills.

131.

Because the Ordinance will do nothing to remedy the burdens alleged by Cherokee County, but rather will merely prevent a number of people, primarily racial and ethnic minorities, from renting homes in the County, the Ordinance is an abuse of Cherokee County's police powers.

132.

Therefore, plaintiffs are entitled to declaratory and injunctive relief.

COUNT XI - THE MUNICIPAL HOME RULE ACT OF 1965

133.

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 132 above as stated.

134.

Cherokee County may not adopt a municipal ordinance that is preempted by federal or Georgia law, under Art. IX, Section 2, Paragraph 1 of the Georgia Constitution.

135.

Section 36-35-3 of the Georgia Code provides that "The governing authority of each municipal corporation shall have legislative power to adopt clearly reasonable ordinances. . .relating to its property, affairs, and local government *for which no provision has been made by general law and which are not inconsistent with the Constitution* or any charter provision applicable thereto." (emphasis added).

136.

On its face, the Ordinance directly conflicts with O.C.G.A. § 36-35-3 because it contravenes the previously enacted and long-standing Landlord and Tenant Act codified at O.C.G.A. § 44-7-1 to -22 (2006) and conflicts with numerous provisions of the Georgia Constitution. Accordingly, Cherokee County has exceeded its authority under the Municipal Home Rule Act of 1965 in enacting the Ordinance.

137.

The Ordinance is not "clearly reasonable" in accordance with the provisions of the Home Rule requirements for local governments expressed in O.C.G.A. § 36-35-3(a).

138.

The Ordinance also violates the prohibition against special laws relating to the rights or status of private persons embodied by the Georgia Constitution, Art. III, Section 6, Paragraph 4(c). The Ordinance is overbroad and criminalizes activity which is permissible under the Georgia Constitution and the Georgia Landlord and Tenant Act.

139.

Therefore, plaintiffs are entitled to declaratory and injunctive relief on the grounds that Cherokee County has exceeded its authority in attempting to enact and enforce the Ordinance.

COUNT XII - VIOLATION OF PROTECTION FROM SELF-INCRIMINATION

140.

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 138 above as stated.

141.

The Ordinance violates the protection against self-incrimination embodied in United States Constitution, Art. V and the Georgia Constitution, Article 1, Section 1, Paragraph XVI, in that it compels Plaintiff Tenants to provide to Cherokee County evidence which might tend to incriminate themselves.

COUNT XIII - VIOLATION OF PROTECTION FROM UNREASONABLE SEARCHES AND SEIZURES

142.

Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 141 above as stated.

143.

The Ordinance violates the protection against unreasonable searches and seizures embodied in United States Constitution, Art. IV and the Georgia Constitution, Article 1, Section 1, Paragraph VIII, because the Ordinance purports to require landlords and tenants to prove to Cherokee County the tenants are not "illegal aliens," rather than requiring Cherokee County to prove that those persons are "illegal aliens." This is unconstitutional burden shifting.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following:

A. That the Court grant a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 in favor of Plaintiffs and against Defendant Cherokee County, Georgia and declare the Ordinance void because it violates numerous provisions of the United States Constitution, the Georgia Constitution, as well as federal and state law as set forth in Counts I through XII herein;

B. That the Court grant Plaintiffs statutory and exemplary damages under Counts I through XII of the Complaint;

C. That the Court grant Plaintiffs' request for equitable relief and enter a temporary restraining order and a preliminary and/or permanent injunction pursuant to Fed. R. Civ. P. 65, and a permanent injunction, prohibiting Defendant Cherokee County, Georgia and its officials, employees, and agents from implementing or enforcing the Ordinance;

D. That the Court grant Plaintiffs their reasonable attorneys' fees and the costs of this litigation; and

E. That the Court grant Plaintiffs such other and further relief as this Court may deem just, proper and equitable under the circumstances.

Respectfully submitted this 4th day of January, 2007.

TROUTMAN SANDERS LLP

Alan E. Lubel
Georgia Bar No. 460625
Mark S. Vanderbroek
Georgia Bar No. 72440
Bryony Helen Bowers
Georgia Bar No. 070393
Melissa D. Lu
Georgia Bar No. 696426

5200 Bank of America Plaza
600 Peachtree Street N.E.
Atlanta, Georgia 30308-2216
Telephone: (404)885-3000
Facsimile: (404)962-6686

HERNAN TAYLOR & LEE

s/ Jamie B. Hernan (by QSL w/permission)
Jamie B. Hernan
Georgia Bar No. 348555
Christopher C. Taylor
Georgia Bar No. 699696
Jerome D. Lee
Georgia Bar No. 443455

990 Holcomb Bridge Road, Suite 3
Roswell, Georgia 30076
Telephone: (770) 650-7200
Facsimile: (770) 650-7211

ACLU FOUNDATION OF GEORGIA

s/ Gerald R. Weber (by QSL w/permission)
Gerald R. Weber
Georgia Bar No. 744878
Elizabeth Littrell
Georgia Bar No. 454949
Margaret F. Garrett
Georgia Bar No. 255865

75 Piedmont Avenue, Suite 514
Atlanta, Georgia 30303
Telephone: (404) 523-6201

ACLU FOUNDATION
IMMIGRANTS' RIGHTS PROJECT

Lee Gelernt
Omar C. Jadwat
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: (212) 549-2620

ACLU FOUNDATION
IMMIGRANTS' RIGHTS PROJECT

Lucas Guttentag
Jennifer C. Chang
39 Drumm Street
San Francisco, California 94111

MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL
FUND
s/ Isaiah D. Delemar (by AEL
by permission)
Isaiah D. Delemar
Georgia Bar No.216926
Erik Meder
Georgia Bar No. Pending

41 Marietta Street, Suite 1000
Atlanta, Georgia 30303
Telephone: (678) 559-1071
Facsimile: (678) 559-1079

Attorneys for Plaintiffs,
Robert Stewart, Inc. d/b/a Bells Ferry
Mobile Home Park, John Doe 1, John
Doe 2, Jane Doe 3, John Doe 4, John
Doe 5, John Doe 6, and John Doe 7

ORIGINAL

STATE OF GEORGIA
COUNTY OF CHEROKEE

ORDINANCE NO. 2006- 023

An Ordinance to amend the Code of Ordinances of Cherokee County to add Section 18-500 *et. seq.*; to establish penalties for the harboring of illegal aliens in Cherokee County; to promote the public health, safety and welfare; and for other purposes.

BE IT ORDAINED by the Cherokee County Board of Commissioners and it is hereby enacted pursuant to the authority of the same that the Code of Ordinances of Cherokee County is hereby amended by adding thereto the following:

SECTION 1. FINDINGS. The following findings shall be included in the Code of Ordinances as Section 18-501:

1. Federal law requires that certain conditions be met before an alien may be authorized to be a lawful permanent resident, or be lawfully present, in the United States. Those conditions are found principally at United States Code Title 8, section 1101 *et. seq.*

2. Illegal aliens, as defined by federal law, do not normally meet such conditions as a matter of law when present in the County.

3. The harboring of illegal aliens in dwelling units in the County, and crime committed by illegal aliens harm the health, safety and welfare of legal residents in the County.

4. Because such individuals are not in this country lawfully, there is an increased chance that they will reside in dwelling units without typical leasing, payment and other tenancy arrangements that enable the civil and regulatory processes of this County to be effective.

A

The regulations of the County regarding housing and property maintenance often depend upon reporting by residents and neighbors as a means of bringing unlawful conditions, and notify authorities, or to participate in subsequent proceedings to remedy such conditions. This creates an increased likelihood that housing and property maintenance violations will remain unreported and because such conditions are unreported, an increased chance that such conditions will multiply in the future.

5. Because of the lack of tenancy arrangements which are subject to normal civil and regulatory processes (such as written leases, records of rent receipts, and related documentation which normally accompany a tenancy arrangement) there is a greater chance that such individuals will occupy residential units in excessively large numbers, or under living conditions, that do not meet applicable building and health and safety codes. This creates unanticipated burdens on the units and the public infrastructure supporting such dwellings.

6. The state and federal government lack the resources to properly protect the citizens of Cherokee County from the adverse effects of the harboring of illegal aliens, and the criminal activities of some illegal aliens.

7. The County finds that it is in the best interest of and will serve and benefit the health, safety and welfare of the public and law-abiding business entities and property owners to adopt policies and procedures to deter and prevent the harboring of illegal aliens, and criminal activity by illegal aliens.

8. United States Code Title 8 subsection 1324(a)(1)(A) prohibits the harboring of illegal aliens. The provision of housing to illegal aliens is a fundamental component of harboring, and has been held by the Courts to constitute the crime of harboring. See United States v. Lopez, 521 F.2d 437(1975); cert. denied, 96 S.Ct.421, 423 U.S. 995, 46L.Ed 2d 368(1975).

9. The County shall not construe this Ordinance to prohibit the rendering of emergency medical care, emergency assistance, or legal assistance to any person.

SECTION 2. DEFINITIONS. The following definition shall be included in the Code of Ordinances as Section 18-502 and shall be construed so as to be consistent with state and federal law, including federal immigration law:

> For purposes of this Ordinance, *Illegal Alien* means an alien who is not lawfully present in the United States, according to the terms of United States Code Title 8, section 1101 *et. seq.*
>
> The County shall not conclude that a person is an illegal alien unless and until an authorized representative of the County has verified with the federal government, pursuant to United States Code Title 8, subsection 1373(c), that the person is an alien who is not lawfully present in the United States.

SECTION 3. HARBORING ILLEGAL ALIENS.

Section 18-503. HARBORING ILLEGAL ALIENS. It is unlawful for any person or business entity that owns a dwelling unit in the County and is subject to Section 18-37, to harbor an illegal alien in the dwelling unit, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, unless such harboring is otherwise expressly permitted by federal law.

a. For the purposes of this section, to let, lease, or rent a dwelling unit to an illegal alien, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, shall be deemed to constitute harboring. To suffer or permit the occupancy of the dwelling unit by an illegal alien, knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, shall also be deemed to constitute harboring.

b. A separate violation shall be deemed to have been committed on each day that such harboring occurs, and for each adult illegal alien harbored in the dwelling unit, beginning one business day after receipt of a notice of violation from the County.

c. A separate violation of this section shall be deemed to have been committed for each business day on which the property owner has failed, following written notice from the County, to provide the County with identity data needed to obtain a federal verification of immigration status, beginning five business days after the property owner receives written notice from the County.

Section 18-504. ENFORCEMENT. Notwithstanding any other provision of this Ordinance, the Business License Department and/or County Marshal shall enforce the requirements of this section as follows:

a. An enforcement action shall be initiated by means of a written signed complaint to the County submitted by any official, business entity, or resident of the County. A valid complaint shall include an allegation that describes the alleged violator(s) as well as the actions constituting the violation, and the date and location where such actions occurred.

b. A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.

c. Upon receipt of a valid written complaint, the County shall, pursuant to United States Code Title 8, section 1373(c), verify with the federal government the lawful immigration status of a person seeking to use, occupy, lease, or rent a dwelling unit in the County. The property owner shall be required to maintain, at all times, the information from a tenant pursuant to United States Code, Title 8, Section 1101 *et. seq.* and make said information available upon the receipt of a valid written complaint by the Cherokee County Business License Department and/or County Marshal upon request. The County shall forward identity data provided by the property owner to the federal government, and shall provide the property owner with written confirmation of such request for verification.

d. If after five business days following receipt of written notice from the County that a violation has occurred and that the immigration status of any illegal alien has been verified, pursuant to United States Code Title 8, section 1373(c), the owner of the dwelling unit fails to correct a violation of this section, the County shall deny or suspend the business license of the dwelling unit as provided in Section 18-55.

e. For the period of suspension, the owner of the dwelling unit shall not be permitted to collect any rent, payment, fee, or any other form of compensation from, or on behalf of, any tenant or occupant in the dwelling unit.

f. The denial or suspension shall terminate one business day after a legal representative of the dwelling unit owner submits, to the Business License Division, a sworn affidavit stating that each and every violation has ended. The affidavit shall include a description the specific measures and actions taken by the business entity to end the violation, and shall include the name, address and other adequate identifying information for the illegal aliens who were the subject of the complaint.

g. The County shall forward the affidavit, complaint, and associated documents to the appropriate state or federal enforcement agency.

h. Any dwelling unit owner who commits a second or subsequent violation of this section shall be subject to penalties as provided in Section 16-249 for each separate violation. The suspension provisions of this section applicable to the first violation shall also apply.

i. Upon the request of a dwelling unit owner subject to this Section, the County shall, pursuant to United States Code Title 8, section 1373(c) verify with the federal government the lawful immigration status of a person seeking to use, occupy, lease, or rent a dwelling unit in the County.

The penalties in this section shall not apply in the case of occupants of a dwelling unit whose status as an alien lawfully present in the United States has been verified.

SECTION 4. EFFECTIVE DATE.

Section 18-505. The requirements and obligations of this section shall be effective as of January 1, 2007. The enforcement provisions, however, shall not apply to the current term of any lease existing as of the effective date of this section. The enforcement provisions of this section shall apply to any leases, entered into or renewed, after the effective date of this section.

SECTION 5. CONSTRUCTION. The requirements and obligations of this section shall be implemented in a manner fully consistent with federal law regulating immigration and protecting the civil rights of all citizens and aliens.

SECTION 6. SEPARABILITY. If any section, subsection sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional of any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions.

ENACTED THIS 5th **DAY OF** December, **2006.**

CHEROKEE COUNTY
BOARD OF COMMISSIONERS

BY: _____
J. MICHAEL BYRD, CHAIRMAN

ATTEST:
Sheila R. Corbin
SHEILA R. CORBIN, COUNTY CLERK

(SEAL)

JS44 (Rev. 5/05) NDGA)

1 07 CV 0015 ORIGINAL

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purposes of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

1. (a) PLAINTIFF(S)
Robert Stewart, Inc. d/b/a Bells Ferry Mobile Home Park, John Doe 1, John Doe 2, Jane Doe 3, John Doe 4, John Doe 5, John Doe 6, John Doe 7

DEFENDANT(S)
Cherokee County, Georgia

TCB

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF CHEROKEE
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT CHEROKEE
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)
TROUTMAN SANDERS LLP; HERNAN TAYLOR & LEE; ACLU FOUNDATION OF GEORGIA; MEXICAN AMERICAN LEGAL DEFENDSE AND EDUCATION FUND; COMPLETE LIST ATTACHED AS EXHIBIT A

ATTORNEYS (IF KNOWN)
ANGELA E. DAVIS, ESQ.
JARRARD & DAVIS, LLP
105 PILGRIM DRIVE, SUITE 200
CUMMING, GEORGIA 30040

II. BASIS OF JURISDICTION
(PLACE AN "X" IN ONE BOX ONLY)

[ ] 1 U.S. GOVERNMENT PLAINTIFF
[x] 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
[ ] 2 U.S. GOVERNMENT DEFENDANT
[ ] 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

PLF	DEF		PLF	DEF	
[x] 1	[x] 1	CITIZEN OF THIS STATE	[x] 4	[x] 4	INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
[ ] 2	[ ] 2	CITIZEN OF ANOTHER STATE	[ ] 5	[ ] 5	INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
[x] 3	[ ] 3	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	[ ] 6	[ ] 6	FOREIGN NATION

IV. ORIGIN (PLACE AN X IN ONE BOX ONLY)

[x] 1 ORIGINAL PROCEEDING | [ ] 2 REMOVED FROM STATE COURT | [ ] 3 REMANDED FROM APPELLATE COURT | [ ] 4 REINSTATED OR REOPENED | [ ] 5 TRANSFERRED FROM ANOTHER DISTRICT (SPECIFY DISTRICT) | [ ] 6 MULTIDISTRICT LITIGATION | [ ] 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE -- DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

THIS IS AN ACTION CHALLENGING THE CONSTITUTIONALITY OF CHEROKEE COUNTY, GEORGIA'S ORDINANCE NO. 2006-003, "HARBORING ILLEGAL ALIENS," BROUGHT PURSUANT TO THE DECLARATORY JUDGMENT ACT, 28 U.S.C. §§ 2201 AND 2202.

(IF COMPLEX, CHECK REASON BELOW)

[ ] 1. Unusually large number of parties.
[ ] 2. Unusually large number of claims or defenses.
[ ] 3. Factual issues are exceptionally complex.
[ ] 4. Greater than normal volume of evidence.
[ ] 5 Extended discovery period is needed.
[ ] 6. Problems locating or preserving evidence.
[ ] 7. Pending parallel investigations or actions by government.
[ ] 8. Multiple use of experts.
[ ] 9. Need for discovery outside United States boundaries.
[ ] 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT $ _____ APPLYING IFP _____ MAG. JUDGE (IFP) _____

JUDGE TCB MAG. JUDGE _____ NATURE OF SUIT 443 CAUSE OF ACTION 28:2201

(Referral)

VI. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK
[ ] 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
[ ] 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL. VETERANS)
[ ] 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK
[ ] 110 INSURANCE
[ ] 120 MARINE
[ ] 130 MILLER ACT
[ ] 140 NEGOTIABLE INSTRUMENT
[ ] 151 MEDICARE ACT
[ ] 160 STOCKHOLDERS' SUITS
[ ] 190 OTHER CONTRACT
[ ] 195 CONTRACT PRODUCT LIABILITY
[ ] 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK
[ ] 210 LAND CONDEMNATION
[ ] 220 FORECLOSURE
[ ] 230 RENT LEASE & EJECTMENT
[ ] 240 TORTS TO LAND
[ ] 245 TORT PRODUCT LIABILITY
[ ] 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK
[ ] 310 AIRPLANE
[ ] 315 AIRPLANE PRODUCT LIABILITY
[ ] 320 ASSAULT, LIBEL & SLANDER
[ ] 330 FEDERAL EMPLOYERS' LIABILITY
[ ] 340 MARINE
[ ] 345 MARINE PRODUCT LIABILITY
[ ] 350 MOTOR VEHICLE
[ ] 355 MOTOR VEHICLE PRODUCT LIABILITY
[ ] 360 OTHER PERSONAL INJURY
[ ] 362 PERSONAL INJURY - MEDICAL MALPRACTICE
[ ] 365 PERSONAL INJURY - PRODUCT LIABILITY
[ ] 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK
[ ] 370 OTHER FRAUD
[ ] 371 TRUTH IN LENDING
[ ] 380 OTHER PERSONAL PROPERTY DAMAGE
[ ] 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK
[ ] 422 APPEAL 28 USC 158
[ ] 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK
[ ] 441 VOTING
[ ] 442 EMPLOYMENT
[x] 443 HOUSING / ACCOMMODATIONS
[ ] 444 WELFARE
[ ] 440 OTHER CIVIL RIGHTS
[ ] 445 AMERICANS with DISABILITIES - Employment
[ ] 446 AMERICANS with DISABILITIES - Other

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK
[ ] 510 MOTIONS TO VACATE SENTENCE
[ ] 530 HABEAS CORPUS
[ ] 535 HABEAS CORPUS DEATH PENALTY
[ ] 540 MANDAMUS & OTHER
[ ] 550 CIVIL RIGHTS (Filed Pro se)
[ ] 555 PRISON CONDITION(S) (Filed Pro se)

PRISONER PETITIONS – "4" MONTHS DISCOVERY TRACK
[ ] 550 CIVIL RIGHTS (Filed by Counsel)
[ ] 555 PRISON CONDITION(S) (Filed by Counsel)

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK
[ ] 610 AGRICULTURE
[ ] 620 FOOD & DRUG
[ ] 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
[ ] 630 LIQUOR LAWS
[ ] 640 R.R. & TRUCK
[ ] 650 AIRLINE REGS.
[ ] 660 OCCUPATIONAL SAFETY/HEALTH
[ ] 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK
[ ] 710 FAIR LABOR STANDARDS ACT
[ ] 720 LABOR/MGMT. RELATIONS
[ ] 730 LABOR/MGMT. REPORTING & DISCLOSURE ACT
[ ] 740 RAILWAY LABOR ACT
[ ] 790 OTHER LABOR LITIGATION
[ ] 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK
[ ] 820 COPYRIGHTS
[ ] 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK
[ ] 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK
[ ] 861 HIA (1395ff)
[ ] 862 BLACK LUNG (923)
[ ] 863 DIWC (405(g))
[ ] 863 DIWW (405(g))
[ ] 864 SSID TITLE XVI
[ ] 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK
[ ] 870 TAXES (U.S. PLAINTIFF OR DEFENDANT)
[ ] 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK
[ ] 400 STATE REAPPORTIONMENT
[ ] 430 BANKS AND BANKING
[ ] 450 COMMERCE/ICC RATES/ETC.
[ ] 460 DEPORTATION
[ ] 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
[ ] 480 CONSUMER CREDIT
[ ] 490 CABLE/SATELLITE TV
[ ] 810 SELECTIVE SERVICE
[ ] 875 CUSTOMER CHALLENGE 12 USC 3410
[ ] 891 AGRICULTURAL ACTS
[ ] 892 ECONOMIC STABILIZATION ACT
[ ] 893 ENVIRONMENTAL MATTERS
[ ] 894 ENERGY ALLOCATION ACT
[ ] 895 FREEDOM OF INFORMATION ACT
[ ] 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
[ ] 950 CONSTITUTIONALITY OF STATE STATUTES
[ ] 890 OTHER STATUTORY ACTIONS

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK
[ ] 410 ANTITRUST
[ ] 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUES - "0" MONTHS DISCOVERY TRACK
[ ] ARBITRATION (CONFIRM/VACATE/ORDER/MODIFY)

((Note: Please mark underlying Nature of Suit as well)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

[ ] CHECK IF THIS A CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND $ _____

JURY DEMAND [x] YES [ ] NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED CASE(S) IF ANY

JUDGE _____ **DOCKET NO.** _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

[ ] 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
[ ] 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
[ ] 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERING PENDING SUIT.
[ ] 4 APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
[ ] 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
[ ] 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)).
[ ] 7. EITHER SOME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. THIS CASE ☐ IS ☐ IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

William E. Luebel 1-4-07

SIGNATURE OF ATTORNEY OF RECORD **DATE**

EXHIBIT "A"

Alan E. Lubel
TROUTMAN SANDERS LLP
5200 Bank of America Plaza
600 Peachtree Street N.E.
Atlanta, Georgia 30308-2216
Telephone: (404) 885-3000
E-mail: alan.lubel@troutmansanders.com

Mark S. Vanderbroek
TROUTMAN SANDERS LLP
5200 Bank of America Plaza
600 Peachtree Street N.E.
Atlanta, Georgia 30308-2216
Telephone: (404)885-3000
E-mail: mark.vanderbroek@troutmansanders.com

Bryony Helen Bowers
TROUTMAN SANDERS LLP
5200 Bank of America Plaza
600 Peachtree Street N.E.
Atlanta, Georgia 30308-2216
Telephone: (404)885-3000
E-mail: bryony.bowers@troutmansanders.com

Melissa D. Lu
TROUTMAN SANDERS LLP
5200 Bank of America Plaza
600 Peachtree Street N.E.
Atlanta, Georgia 30308-2216
Telephone: (404)885-3000
E-mail: melissa.lu@troutmansanders.com

Jamie B. Hernan
HERNAN TAYLOR & LEE
990 Holcomb Bridge Road, Suite 3
Roswell, Georgia 30076

Telephone: (770) 650-7200
E-mail: jamie@htlweb.com

Christopher C. Taylor
HERNAN TAYLOR & LEE
990 Holcomb Bridge Road, Suite 3
Roswell, Georgia 30076
Telephone: (770) 650-7200
E-mail: chris@htlweb.com

Jerome D. Lee
HERNAN TAYLOR & LEE
990 Holcomb Bridge Road, Suite 3
Roswell, Georgia 30076
Telephone: (770) 650-7200
E-mail: Jerome@htlweb.com

Gerald R. Weber
ACLU FOUNDATION OF GEORGIA
75 Piedmont Avenue, Suite 514
Atlanta, Georgia 30303
Telephone: (404) 523-6201
E-mail: gweber@acluga.org

Elizabeth Littrell
ACLU FOUNDATION OF GEORGIA
75 Piedmont Avenue, Suite 514
Atlanta, Georgia 30303
Telephone: (404) 523-6201
E-mail: blittrell@acluga.org

Margaret F. Garrett
ACLU FOUNDATION OF GEORGIA
75 Piedmont Avenue, Suite 514
Atlanta, Georgia 30303
Telephone: (404) 523-6201
E-mail: mgarrett@acluga.org
Isaiah D. Delemar

MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
41 Marietta Street, Suite 1000
Atlanta, Georgia 30303
Telephone: (678) 559-1071
E-mail: idelemar@maldef.org

Erik Meder
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
41 Marietta Street, Suite 1000
Atlanta, Georgia 30303
Telephone: (678) 559-1071
E-mail: emeder@maldef.org

Lee Gelernt
ACLU FOUNDATION IMMIGRANTS' RIGHTS PROJECT
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: (212) 549-2620

Omar C. Jadwat
ACLU FOUNDATION IMMIGRANTS' RIGHTS PROJECT
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: (212) 549-2620

Lucas Guttentag
ACLU FOUNDATION IMMIGRANTS' RIGHTS PROJECT
39 Drumm Street
San Francisco, California 94111
Telephone: (415) 343-0770

Jennifer C. Chang
ACLU FOUNDATION IMMIGRANTS' RIGHTS PROJECT
39 Drumm Street
San Francisco, California 94111
Telephone: (415) 343-0770