

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

IOWA MIGRANT MOVEMENT FOR )  
JUSTICE, JANE DOE, ELIZABETH ROE, )

*Plaintiffs,* )

v. )

ATTORNEY GENERAL OF IOWA BRENNA )  
BIRD, in her official capacity, POLK COUNTY )  
ATTORNEY KIMBERLY GRAHAM, in her )  
official capacity, CLAYTON COUNTY )  
ATTORNEY ZACH HERRMANN, in his )  
official capacity, )

*Defendants.* )

Case No. 4:24-cv-161

**PLAINTIFFS’ MOTION FOR  
PRELIMINARY INJUNCTION**

Plaintiffs Iowa Migrant Movement for Justice (“Iowa MMJ”), Jane Doe, and Elizabeth Roe hereby move for a preliminary injunction pursuant to Federal Rule of Civil Procedure 65 to prevent irreparable injury pending final adjudication of Plaintiffs’ action.

This Motion is supported by the accompanying Brief in Support of Plaintiffs’ Motion for a Preliminary Junction; the Declarations of Erica Johnson, Jane Doe, Elizabeth Roe, Ry Meyer, Maria Corona, and Chief Michael Tupper; and any other material the Court may consider at any hearing on this Motion.

As Plaintiffs set forth in their accompanying Brief in Support of Plaintiffs’ Motion for a Preliminary Injunction, Plaintiffs are likely to succeed on the merits of their claim of preemption. Iowa Senate File 2340 (“S.F. 2340”) unconstitutionally intrudes on the exclusively federal field of entry and removal, and is in conflict with federal law. *See Arizona v. United States*, 567 U.S. 387, 399 (2012) (“First, the States are precluded from regulating conduct in a field that Congress, acting within its proper authority, has determined must be regulated by its exclusive governance. . . .

Second, state laws are preempted when they conflict with federal law.”); *see also* U.S. Const. Art. VI, cl. 2 (providing that federal law “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding”).

Plaintiffs will suffer irreparable injury absent an injunction. Absent an injunction, beginning July 1, Plaintiffs Jane Doe, Elizabeth Roe, and members of Iowa MMJ will be placed at immediate risk of arrest, prosecution, detention, and removal; further, Plaintiff Iowa MMJ will be forced to divert significant resources to counteract the harms caused by the law, undermining its ability to pursue core programs central to its mission.

The balance of equities and the public interest are also in Plaintiffs’ favor, as the State has no interest in enforcing an unconstitutional law, *Rodgers v. Bryant*, 942 F.3d 451, 458 (8th Cir. 2019), and the “[f]rustration of federal statutes and prerogatives [is] not in the public interest,” *United States v. Alabama*, 691 F.3d 1269, 1301 (11th Cir. 2012). *See also Nken v. Holder*, 556 U.S. 418, 435 (2009) (noting the factors of harm to the opposing party and weighing the public interest “merge when the Government is the opposing party”).

Accordingly, a preliminary injunction should be issued. *See Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981) (en banc) (identifying factors for consideration of a preliminary injunction).

Plaintiffs request that the Court waive the requirement of bond in Federal Rule of Civil Procedure 65(c). *Richard/Wilkin Joint Powers Auth. v. U.S. Army Corps of Eng’rs*, 826 F.3d 1030, 1043 (8th Cir. 2017) (whether to require bond is within district court’s discretion). Public interest litigation is a recognized exception to the bond requirement, especially where, as here, requiring a

bond would sustain an unconstitutional state law and the relief sought would not pose a hardship to government Defendants. *See id.*

DATED: May 10, 2024

Respectfully submitted,

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\* Admitted *pro hac vice*

\*\* *Pro hac vice* motion pending

\*\*\* *Pro hac vice* motion forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing paper, accompanying brief, and exhibits, with the Clerk of Court by using the CM/ECF system.

The foregoing paper and attachments will also be served along with the Complaint and Summons to all Defendants.

Date: May 10, 2024

/s/ Emma Winger

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