

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Janet May, et al.,)	
)	
Plaintiffs,)	
)	Civil Action No. 2:07-cv-738-N
v.)	
)	
City of Montgomery, Al. et al.,)	
)	
Defendants.)	
_____)	

**MOTION AND BRIEF OF DEFENDANTS TO DISMISS
PLAINTIFFS' STATE LAW CLAIM**

Defendants, City of Montgomery, Alabama and Bobby Bright, in his official capacity as Mayor of Montgomery, through undersigned counsel, move the court to dismiss the plaintiffs' state law claim described at paragraph 35 of the Amended Complaint and Motion for Preliminary Injunction filed August 20, 2007, Doc. 12, the Plaintiffs' Second Motion for Preliminary Injunction filed August 23, 2007, Doc. 25, and summarized in the Report of Parties' Planning Meeting filed September 20, 2007, Doc 33 at paragraph 4a. page 3.

Defendants ask this court to decline to exercise supplemental jurisdiction under 28 U. S. C. § 1367(a) of Plaintiffs' state law claim and dismiss the claim for the reasons stated in this courts' Opinion and Order of August 24, 2007, Doc 29. It is now abundantly clear that the plaintiffs' state law claim is based entirely on their interpretation of the Alabama Supreme Court's opinion in *Siegelman v. Folmar*, 432 So.2d 1246 (Ala. 1983). There are no facts to be determined in order to reach this issue. There are no federal laws or constitutional provisions that are relevant to determine this purely state law question. The Opinion of August 24th relying upon direct appellate precedent in *Curry v. Baker*, 802 F.2d, 1302 (11th Cir. 1986) and *Hubbard*

v. Ammerman, 465 F.2d 1169 (5th Cir. 1972) and after considering all of the comity and other prudential reasons, stated that it was “...probable that the court will decline to exercise supplemental jurisdiction.” If this Court dismisses the plaintiffs’ state law claim at this time it will further the “just, speedy, and inexpensive determination” of this case.

WHEREFORE, defendants pray that plaintiffs’ state law claim be dismissed.

Respectfully submitted this 24th day of September, 2007.

/s/ Larry Menefee

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CERTIFICATE OF SERVICE

I certify that on this 24th day of September, 2007 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following attorneys:

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