UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

BAYOU LAWN & LANDSCAPE SERVICES, CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, NATIONAL HISPANIC LANDSCAPE ALLIANCE, PROFESSIONAL LANDCARE NETWORK, SILVICULTURAL MANAGEMENT ASSOCIATES, INC., FLORIDA FORESTRY ASSOCIATION,	)	
Plaintiffs	)	
v.	)	No.3:12-cv-00183 (MCR-EMT)
THOMAS PEREZ, JR. and JANE OATES,	)	
Defendants.	)	

SUPPLEMENTAL DECLARATION OF JOHN M. PRICE

1. My name is John M. Price. I am the controlling owner and president of Silvicultural Management Associates, Inc. ("SMA"), which is a named Plaintiff in the above-referenced case.

2. On April 16, 2012, I submitted a Declaration to the Court describing the irreparable injury that would occur to SMA if the Department of Labor ("DOL") were allowed to impose legally binding substantive standards for the wages and workings conditions of H-2B nonimmigrants and others in connection with SMA's participation in the H-2B program. In particular, I described the background of my business, the competitive situation facing my business, and why the H-2B program is essential to meeting SMA's labor needs. My Declaration explained how the regulations that DOL compiled and promulgated in the Federal Register as Employment and Training Administration, *Temporary Non-Agricultural Employment*

of H-2B Aliens in the United States, Part II, 78 Fed. Reg. 10038 (Feb. 21, 2012) ("2012 H-2B Comprehensive Final Rule"; "2012 Program Rule"), would cause my small business irreparable injury.

3. This Court entered a Preliminary Injunction on April 26, 2012 enjoining DOL from enforcing the 2012 H-2B Comprehensive Final Rule pending the Court's adjudication of SMA's and the other Plaintiffs' claims. The Court entered this Order because it found that we and the other Plaintiffs were likely to succeed on the merits of our claims, that there was a substantial threat that enforcement of the 2012 H-2B Comprehensive Final Rule would cause significant and irreparable losses of revenue, customers, and goodwill, and that any harm to DOL was outweighed by the devastating effects of the regulations in the 2012 H-2B Comprehensive Final Rule.

4. This Court also stated that preliminarily enjoining DOL's enforcement of the 2012 H-2B Comprehensive Final Rule was in the public interest while the courts adjudicated the scope of DOL's authority because the public interest required DOL to obey the limits of its authority.

5. DOL then appealed to the United States Court of Appeals for the Eleventh Circuit. The Court of Appeals affirmed this Court's decision. It ruled that Congress had not expressly authorized DOL to set legally binding standards governing the wages and working conditions of H-2B nonimmigrants admitted to the United States or governing any other aspect of an employer's participation in the H-2B program. The Court of Appeals also rejected DOL's argument that the "text, structure, and object" of the statutory provisions relating to the H-2B program implicitly delegated lawmaking power to DOL. The Court of Appeals also agreed with this Court that we Plaintiffs had sufficiently shown that we would be irreparably injured if DOL

enforced the provisions of 2012 H-2B Comprehensive Rule and that the public interest favored a preliminary injunction.

6. After the Court of Appeals issued its mandate, it is my understanding that this Court entered an Order requiring the parties to make additional submissions so that the Court could adjudicate our claims.

7. In connection with the resumption of these proceedings, I reviewed the Declaration that I submitted at the beginning of this litigation. I have attached it for ease of reference. Everything in that Declaration is still true. Enforcement of the 2012 H-2B Comprehensive Final Rule would still cause SMA irreparable injury. The following reasons set forth in my original declaration bear repeating:

> 9. The new procedures for applying for temporary labor certifications from DOL include a pre-certification process and significant additional filing requirements. This creates a serious problem with delays in obtaining certifications and visas for H-2B workers. I understand that this process is similar in many respects to the one used in the H-2A program and it has led to long delays in that program. There is nothing to indicate that those same delays will not adversely affect the H-2B program. Any delay in workers arriving to perform on the company's contracts with clients will result in serious harm to SMA, since we need these workers to begin on the date of need stated in the job order, not weeks later when the paperwork has cleared DOL and DHS and the consulate has issued the visas. SMA participates in the H-2B program because sufficient U.S. workers are not available during the period covered by the job order, and if the H-2B workers do not arrive on time, we will not be able to meet our contractual duties to our clients and we will lose customers.
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> 10. These rule changes will be devastating to our small business and will have similar effects on all silviculture and forestry companies using the H-2B program. Our work is entirely subject to the weather and requires an experienced workforce that is willing to travel thousands of miles through all kinds of terrain for months at a time. Given the additional elements of the FERC regulations that govern our work and the multiyear contract between SMA and Entergy, we have no margin for error in completing our work. Any delays in obtaining workers, any unanticipated additional costs or expenses, or any other factor that impedes our work in maintaining these power lines will be disastrous – for SMA, for Entergy, and for millions of homes throughout the South.

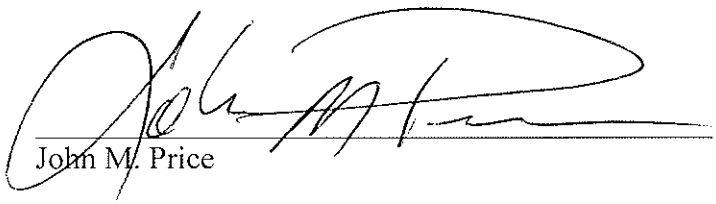
8. SMA is a member of U.S. Chamber of Commerce, as well as the Heber Springs Area Chamber of Commerce.

9. SMA operates over a wide geographic area. Over the past year, SMA has performed work in the States of Arkansas, Mississippi, Louisiana, and Texas. SMA anticipates that it will continue to operate in these states, if not additional ones, in the future.

10. This Supplemental Declaration consists of three pages and ten paragraphs. I ask that the Court treat my Declaration as incorporated herein by reference.

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

Executed on September 5, 2013



John M. Price