

**UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION**

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|---|---|------------------------------------|
| STATE OF ALABAMA, et al., | } | |
| | } | |
| Plaintiffs, | } | |
| | } | |
| v. | } | |
| | } | |
| UNITED STATES DEPARTMENT OF COMMERCE, et al., | } | |
| | } | |
| Defendants. | } | |
| | } | |
| v. | } | Case No.: 2:18-CV-00772-RDP |
| | } | |
| DIANA MARTINEZ, et al., | } | |
| Intervenor Defendants, | } | |
| | } | |
| and | } | |
| | } | |
| JOEY CARDENAS, et al, | } | |
| Cross-Claimants, | } | |
| | } | |
| v. | } | |
| | } | |
| BUREAU OF CENSUS, et al., | } | |
| Cross-Defendants. | } | |

SHOW CAUSE ORDER


On December 13, 2018, the court permitted certain non-parties, who are governmental entities (“Defendant-Intervenors”), to intervene in this action. (Doc. # 54). And, on October 9, 2020, the court denied Plaintiffs’ Motion for the Appointment of a Three-Judge Court. (Docs. # 171, 178). Defendant-Intervenors opposed Plaintiffs’ Motion arguing that convening a three-judge panel was not appropriate under the circumstances of this case. (Doc. # 173). Recently, it came to the court’s attention that the following Defendant-Intervenors are also plaintiffs in a case they filed

in the Northern District of California, which challenges the constitutionality of the Presidential Memorandum: City of San Jose, California; King County, Washington; State of California; and Arlington County, Virginia. *See City of San Jose, California, v. Trump*, No. 20-cv-1567 (N.D. Cal. filed July 7, 2020). And, in that action, Defendant-Intervenors filed a motion *requesting* a three-judge court. *See id.*, Docs. # 44, 49. Judge Koh granted their request. *Id.*, Doc. # 49.

The effects of granting a three-judge district court are not lost on the court. For example, in the aftermath of district court proceedings, the parties have the opportunity to present their case *directly* to the Supreme Court without having to first appeal to an appellate court and then petition for certiorari. (*See* Doc. # 178). So, the question of whether to convene a three-judge court in a case like this is significant.

Defendant-Intervenors listed above are **DIRECTED** to **SHOW CAUSE** in writing, **within seven (7) days** from the date of this Order, whether they have taken inconsistent positions on the important issue of a three-judge court and, if so, why.

DONE and **ORDERED** this October 30, 2020.


R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE