

EXHIBIT

5

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

CHAMBER OF COMMERCE OF THE UNITED)
STATES OF AMERICA and the OKLAHOMA)
STATE CHAMBER OF COMMERCE AND)
ASSOCIATED INDUSTRIES, *et al.*,)

Plaintiffs,)

v.)

No. _____

BRAD HENRY, in his official capacity as Governor)
of the State of Oklahoma, W.A. DREW)
EDMONDSON, in his official capacity as Attorney)
General of the State of Oklahoma, *et al.*,)

Defendants.)
_____)

DECLARATION OF MIKE NEAL

I, Mike Neal, do hereby state and declare the following:

1. I am over the age of 18 and am a citizen of the United States. The statements contained in this declaration are my own, and are based on personal knowledge and information I have gained in the course of my business.
2. I am the President and Chief Executive Officer of the Metropolitan Tulsa Chamber of Commerce, Inc., which does business as the Tulsa Metro Chamber.
3. The Tulsa Metro Chamber is located at Williams Center Tower II, 2 W. 2nd St., Suite 150, Tulsa, Oklahoma 74103.
4. One of the purposes of the Tulsa Metro Chamber is to promote business, commerce and quality job growth in the Tulsa/North East Oklahoma Region. The Tulsa Metro Chamber represents businesses in diverse fields, including energy, aerospace, manufacturing, servicing,

retail, wholesale, financial, construction, trades, utilities, telecommunications, tourism and transportation. The Tulsa Metro Chamber, and its members, do not support the employment of illegal immigrants. The Tulsa Metro Chamber is a member of the Chamber of Commerce of the United States of America and the State Chamber of Oklahoma.

5. One of the purposes of the Tulsa Metro Chamber's is to advocate for the interests of its members, including before government agencies, the legislature, and the courts.

6. The Tulsa Metro Chamber has approximately 2,800 members in Oklahoma.

7. Many of the Tulsa Metro Chamber's members have contracts with state and local governments and other public entities in Oklahoma. Many of our members employ individual independent contractors in the State of Oklahoma.

8. Members of the Tulsa Chamber will be subject to, and harmed by, the Oklahoma Taxpayer and Citizen Protection Act of 2007 (HB 1804).

9. Members of the Tulsa Chamber will be subject to, and harmed by, the Section 7(B) of HB 1804 that requires all businesses that contract with public entities in the State to verify the immigration status of all their new employees using the new "Status Verification System," instead of continuing to use only the I-9 Form process required by federal law.

10. The new Status Verification System is effectively limited to the "Basic Pilot Program." I understand that the Basic Pilot Program is an experimental federal database, and it is strictly voluntary. Many of our members that have contracts with public entities do not participate in the Basic Pilot Program. Those members will therefore automatically be debarred from contracts with all public entities once this Section of HB 1804 goes into effect. They will also be required to forfeit contracts they have already won, and they will not be able to bid on any future contracts.

11. The Tulsa Chamber has many members that are dependent on public contracts for their businesses. Debarment from these contracts would cause them serious and irreparable harm.

12. There are several good reasons why the Tulsa Chamber's members should not be forced to use the Basic Pilot Program. I am aware, for example, that the Basic Pilot Program is experimental and voluntary, does not contain a complete or correct list of all legal workers, and is prone to errors. It also restricts the pool of legal workers that can be lawfully hired by the Tulsa Chamber's members.

13. The labor market in Oklahoma is tight. If our members cannot hire from among all legal workers, their ability to fill their workforces will be impaired and they will suffer harm.

14. The Tulsa Chamber members who depend upon public contracts will also be harmed because the Basic Pilot system does not actually confirm that an employee is illegal. Rather, the Program will require those members to wait for weeks while any employee that is not confirmed by the system attempts to sort out problems or discrepancies in the database. During this time, our members will be forced to incur substantial expenses training and orienting new employees, without being able to confirm whether they are actually authorized to work. None of these expenses can be recovered.

15. Our members who depend upon public contracts will also suffer harm when new employees are required to divert their time, attention, and work-hours to sorting out problems with the database, rather than devoting their full attention to their responsibilities as employees of our members.

16. Our members who depend upon public contracts will also incur expenses retraining their employees and reorienting their verification procedures to use the Basic Pilot Program, and continuing to implement the Program and comply with its rules. These costs would not be

incurred if our members were allowed to continue to use the I-9 Form process that has been in place under federal law for years. None of these expenses can be recovered from the State if the law is found unconstitutional.

17. Members of the Tulsa Metro Chamber will also be subject to, and harmed by, the Section 9 of HB 1804 that requires them to verify the work authorization of all individual independent contractors, or be subject to adverse tax consequences that include withholding the highest marginal rate of taxes from the contractors' pay, or paying a tax penalty in the same amount.

18. Our members cannot verify the work authorization of non-employees.

19. Both of the tax provisions described in paragraph 17 will harm our members.

20. First, the withholding requirement will decrease the take-home pay of individual independent contractors and will make it much more expensive for them to do business as an individual independent contractor in the State of Oklahoma. This will result in fewer individual independent contractors, and will harm the ability of our members to hire qualified individual independent contractors. Many of our members rely on these contractors to perform critical services for their businesses, and our members will be harmed if they cannot use the services of qualified individual independent contractors.

21. Second, our members will be required to pay individual independent contractors more as part of their contract pay, in order to offset the new state withholding requirements. This will cost our members money and diverted profits, and will make it more expensive for them to engage the services of individual independent contractors. This will harm our members, both in terms of lost profits and as an impediment to their ability to hire individual independent contractors. None of these costs can be recovered.

22. Third, our members who use the services of individual independent contractors now do not withhold any taxes from the amounts paid to them. Due to the enactment of Section 9 of HB 1804, our members will be required to hire new employees or to assign new tasks to existing employees to calculate and to remit the new withholding amounts to the taxing authorities. The costs of these new employees or the cost of the use of time by existing employees cannot be recovered.

23. Fourth, the only other option under Oklahoma's law is for our members to pay a tax penalty in the amount of the lost withholding. This option will cause our members harm by making it more expensive for them to engage the services of individual independent contractors. The tax penalty will cost our members money in the form of higher overhead expenses and diverted profits, and will be an impediment to our members' ability to use the services of individual independent contractors. Our members will be required to hire new employees or to assign new tasks to existing employees to calculate and to remit the tax penalties to the taxing authorities. The costs of these new employees or the cost of the use of time by existing employees cannot be recovered.

24. Members of the Tulsa Chamber will also be subject to, and harmed by, Section 7(C) of HB 1804 that creates a claim for employment discrimination against employers who discharge a legal employee and know or should have known that they employed an illegal worker.

25. The Tulsa Chamber's members comply with federal law and do not knowingly hire illegal workers. But Oklahoma's law imposes liability on our members even if they do not know an employee is illegal. Moreover, any accusation of hiring illegal aliens, even if unmeritorious, wrong, and unfair, will nonetheless cause serious monetary and reputational harm to businesses.

26. To avoid the possibility of these harms, the Tulsa Chamber members will be required to divert profits and set aside reserves, or purchase employment liability insurance, to account for the risk of investigations and suits under this law. These monetary costs are imminent and necessary, especially because employers can be found liable under Oklahoma law without knowing they did anything wrong, and there will be enormous pressure to settle baseless accusations to avoid the damage to businesses and reputations that would be caused by being publicly identified as a suspected employer of illegal aliens. None of these expenses can be recovered.

27. Our members' only other option is to use the new "Status Verification System", which is the only safe harbor from liability under Oklahoma's law. Our members will be forced to choose between expending significant amounts of money to appropriately manage their risk, and signing up for a flawed and experimental verification system. There is thus no way for the Tulsa Chamber's members to avoid suffering harm, even though they comply with federal law and do not knowingly hire illegal workers. None of these expenses can be recovered.

28. In addition to the harm suffered by its members, the Tulsa Chamber is itself an employer in the State of Oklahoma and it will suffer harm directly from the passage and enforcement of HB 1804.

29. The Tulsa Chamber has 48 employees. The Tulsa Chamber has verified its employees' work authorization status using the federal I-9 Form process. The Tulsa Chamber does not participate in the Basic Pilot Program.

30. The Tulsa Chamber has a contract with the City of Tulsa. The Tulsa Chamber will therefore be debarred from this public contract and will be unable to bid on future contracts as of

July 1, 2008. The Tulsa Chamber will be harmed if it is debarred from its contract with the City of Tulsa and from any future contracts with other public entities.

31. For the same reasons as our members, the Tulsa Chamber will suffer harm as an employer if it is forced to use Oklahoma's "Status Verification System" to avoid being debarred from public contracts.

32. As an employer, the Tulsa Chamber will also be subject to, and harmed by, the new claim for employment discrimination contained in Section 7(C) of HB 1804.

33. The Tulsa Chamber will be harmed by this new claim for the same reasons as those I explained above concerning its members.

34. The Tulsa Chamber also uses the services of individual independent contractors for graphic design, conventions services and professional services. The use of individual independent contractors is crucial to the Tulsa Chamber's business.

35. For the same reasons as our members, the Tulsa Chamber will be harmed because it will be effectively forced to incur the adverse tax consequences that HB 1804 imposes on businesses that use the services of individual independent contractors. These harms are explained above.

36. The Tulsa Chamber complies with federal law, does not knowingly hire illegal aliens, and does not support businesses that violate federal law. It is the position of the Tulsa Chamber that the federal government is responsible for solving the illegal immigration problem, and the Tulsa Chamber supports a national solution that is fair to law-abiding businesses.

37. The Tulsa Chamber's mission is to promote business, commerce and quality job growth in the Tulsa/North East Oklahoma Region. The Oklahoma Citizen and Taxpayer Protection Act of 2007 will make it much harder to fulfill this mission.

This Declaration is made under penalty of perjury pursuant to 28 U.S.C. §1746:

Executed on the 21st day of January, 2008.



Mike Neal