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The Plaintiffs have filed a Motion for Preliminary Injunction under Federal Rule of Civil Procedure 65(a) (the "Motion") [ECF No. 30], along with a Memorandum in Support of that Motion for Preliminary Injunction (the "Memorandum") [ECF No. 30-1]. For the reasons we outline below, the Motion for Preliminary Injunction is .[2]

On May 10, 2023, Governor DeSantis signed into law Senate Bill 1718 ("SB 1718"), which amended FLA. STAT. § 787.07 to impose criminal penalties on anyone "who knowingly and willfully transports into this state an individual whom the person knows, or reasonably should know, has entered the United States in violation of law and has not been inspected by the Federal Government

[1] This litigation was originally styled ., 23-cv-22655-ALTMAN. But, since w #

The Motion is ripe for resolution.

since his or her unlawful entry from another country." Complaint for Injunctive Relief and Declaratory Judgment (the "Complaint") [ECF No. 1] ¶¶ 65–66 (quoting FLA. STAT. § 787.07). Section 10 of SB 1718 provides, in its entirety, as follows:

> (1) Except as provided in subsections (3), (4), and (5), a person who knowingly and willfully transports into this state an individual whom the person knows, or reasonably should know, has entered the United States in violation of law and has not been inspected by the Federal Government since his or her unlawful entry from another country commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
> (2) A person commits a separate offense for each individual he or she transports into this state in violation of this section.
> (3) A person who transports a minor into this state in violation of subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
> (4) A person who commits five or more separate offenses under this section during a single episode commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
> (5)
> (a) A person with a prior conviction under this section who commits a subsequent violation of this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
> (b) As used in paragraph (a), the term "conviction" means a determination of guilt that is the result of a plea agreement or a trial, regardless of whether

organization" whose mission is to "support and build power among farmworker and rural low-income communities." . ¶¶ 15–16. "FWAF serves seasonal workers as well as migrant workers who travel with the seasons to harvest crops. To do so, FWAF's members travel back and forth between Florida, Georgia, and Alabama, crossing back into Florida multiple times per year." . ¶ 17. The individual

The Plaintiffs now ask us to enter a preliminary injunction enjoining the Defendants from enforcing Section 10 of SB 1718. We held a preliminary-injunction hearing on December 13, 2023, where the parties presented their oral arguments

"[W]here facts are bitterly contested and credibility determinations must be made to decide whether injunctive relief should issue," district courts must hold an evidentiary hearing on the propriety of injunctive relief. 147 F.3d 1301, 1312 (11th Cir. 1998) (citing , 887 F.2d at 1538 (cleaned up)). At that hearing, the court sits as factfinder. , 320 F.3d 1205, 1211 (11th Cir. 2003) ("Where conflicting factual information places in serious dispute issues central to a party's claims and much depends upon the accurate presentation of numerous facts, the trial court errs in not holding an evidentiary hearing to resolve these hotly contested issues." (cleaned up)).

In our case, we set an evidentiary hearing on the Plaintiffs' Motion, at which all parties had the opportunity to present evidence and to advance their respective positions. Despite this opportunity, the parties decided to present any evidence and to proceed with their written briefings (as supplemented by lengthy oral presentations). Dec. 13, 2023, Hr'g Tr. at 4:22–24 ("THE COURT: Are you going to put on any evidence at all for any of these motions? [PLAINTIFFS' COUNSEL]: No, Your Honor."); . at 5:1 ("THE COURT [referring to defense counsel, who did not object]: So neither are you."); . at 67:17–19 ("THE COURT: All right. We'll take that up—with no evidence, right, just argument? [PLAINTIFFS' COUNSEL]: Correct.").

As a threshold matter, the Defendants contend that the Plaintiffs lack standing to seek a preliminary injunction here. Response at 5. We disagree. To establish his standing under Article III of the U.S. Constitution, a plaintiff must have suffered an "injury in fact" that is "concrete, particularized, and actual or imminent; fairly traceable to the challenged action; and redressable by a favorable ruling." , 561 U.S. 139, 149 (2010). "Where only injunctive relief is sought, with standing is required." , 341 F. Supp. 3d 1326, 1333

(N.D. Ga. 2018) (emphasis added & cleaned up); , 608 F. Supp. 3d 1148, 1153 (N.D. Fla. 2022) (Winsor, J.) ("[W]hen multiple plaintiffs seek injunctive relief, only one needs to show standing."); , 581 U.S. 433, 439 (2017) ("[W]hen there are multiple plaintiffs[,] plaintiff must have standing to seek each form of relief requested in the complaint." (emphasis added)). In our case, one Plaintiff has standing to pursue this preliminary injunction.

Take, for example, Andrea Mendoza Hinojosa. She's suffered an injury in fact because she's established "a realistic danger of sustaining direct injury" from "the statute's operation or enforcement." , 691 F.3d 1250, 1257 (11th Cir. 2012). In her Declaration, after all, she avers that she's transported undocumented immigrants (and is "100% willing to" continue transporting undocumented immigrant) into the State of Florida, but (she says) she "believe[s] [she] should not have to risk jail time in order to get them life-saving care or to help them attend an appointment with USCIS, or for any other legitimate reason." Declaration of Andrea Mendoza Hinojosa (the "Mendoza Decl.") [ECF No. 30-4] ¶¶ 14, 17. And her reluctance to engage in conduct she would otherwise have engaged in is sufficient to show an injury in fact. , 59 F.4th 1124, 1137 (11th Cir. 2023) ("A plaintiff need not 'expose himself to liability' to have standing to challenge the enforcement of a law." (quoting , 549 U.S. 118, 128–29 (2007))).

Ms. Mendoza's injury is also directly traceable to the passage of SB 1718, which she says prevents her from "do[ing] [her] job effectively" and "help[ing] people in [her] community." Mendoza Decl. ¶ 17; . ¶¶ 5, 14, 17 ("Transporting individuals with various immigration statuses, including individuals who have never had any contact with immigration authorities, is a key part of my job . . . . SB 1718, however, has made me extremely anxious that my efforts to help [people who have not been inspected by the federal government] may result in significant jail time and prosecution

for me . . . . I operate my nonprofit on a limited budget, and I would face extreme financial hardship if forced to pay for my release on bond or for my criminal defense if I were arrested.").

Finally, Ms. Mendoza's injury would be redressed by an injunction against the enforcement of Section 10 because, with the statute enjoined, her conduct would no longer put her at risk of arrest or prosecution. Order Granting Motion to Dismiss at 4 ("In many cases, 'redressability and traceability overlap as two sides of a causation coin.'" (quoting , 416 F.3d 1149, 1159 (10th Cir. 2005))).

Carmenza Aragon has likewise established her standing to pursue this injunction. Ms. Aragon planned to drive her undocumented grandson—who has a petition pending for Special Immigrant Juvenile Status—from Florida to Georgia to visit family members who live in Georgia. Declaration of Carmenza Aragon (the "Aragon Decl.") [ECF No. 30-7] ¶¶ 5–6; . ¶ 6 ("My grandson and I traveled to Georgia for a visit with family last October, and we were planning to go again this year."). She then planned to drive her grandson back from Georgia to Florida. Since the passage of SB 1718, however, Ms. Aragon "had to give up [her] trip to Georgia[.]" . ¶ 7. And this harm—not being permitted to travel with her grandson to Georgia—is ongoing: "I do not know when we will be able to go back to visit our family. Now that the transport law is in place, I am afraid to travel with my grandson. If I am traveling with him, I could be stopped and arrested for breaking the new transport

> and that it is preempted by federal law. In his complaint, Taylor alleges that, prior to giving up his license, he was a state-licensed hearing aid specialist for thirty years and had operated his own hearing aid retail store for over twenty-six years. Taylor also alleges that "[b]ut for Florida's prohibition for dispensing hearing aids without using its required fitting procedures and equipment, [he] would immediately begin dispensing hearing aids." In other words, the only thing keeping Taylor from dispensing hearing aids is the threat of enforcement of the allegedly unconstitutional Pre-Sale Testing Statute. And, as Florida's statutory scheme for dispensing hearing aids has been enforced against Taylor in the past, the chance that it will be enforced against him in the future is not speculative. Taylor is thus put in the position of either refraining from conduct he alleges to be unconstitutionally prohibited or engaging in such conduct and exposing himself to enforcement. The Constitution does not require that Taylor expose himself to enforcement of the statute before he can challenge the statute. Hence, Taylor has properly alleged an injury in fact.

964 F.3d 975, 980–81 (11th Cir. 2020). So, too, here: But for Section 10, Ms. Aragon would be driving her grandson to visit family in Georgia. And we have no reason to think that enforcement of Section 10 is unlikely or merely speculative.[3]

A third Plaintiff, Maria Medrano Rios, has suffered an almost-identical injury in fact. In her words:

> I had planned to travel with my family to Texas, so that my children could visit their cousins and so that I could spend time with my brother and sister. I'd spoken to my brother and sister about this trip, and I told my children about it—everyone was very excited . . . .
>
> Now, though, we can't take this trip. It is just too big a risk for my children and me. [My daughter] does not have an immigration case, and does not have any immigration status, even though she has applied for DACA. So, I am scared that she is not allowed to be brought back into Florida if we leave. And I don't know whether I can be driven back into Florida either, since I don't have any official status. I have a case in immigration court, where I am working to get immigration protection, and I have a

[3] As we'll discuss in more detail later, the Defendants claim that these Plaintiffs lack standing because "the individuals they plan to transport have been 'inspected'" within the meaning of Section 10. Response at 9. They therefore promise that "[t]hese Plaintiffs face no credible threat of prosecution." . But the Supreme Court has "warn[ed] against accepting as 'authoritative' an Attorney General's interpretation of state law when 'the Attorney General does not bind the state courts or local law enforcement authorities.'" , 530 U.S. 914, 940 (2000) (quoting , 484 U.S. 383, 395 (1988)). Since we're "without power to adopt a narrowing construction of a state statute unless such a construction is reasonable readily apparent," , 485 U.S. 312, 330 (1988) (emphasis added), we think enforcement against the individual Plaintiffs is sufficiently likely to satisfy Article III standing.

entered the United States in violation of law and has not been inspected by the Federal Government since his or her unlawful entry" commits a felony . . . .

[T]he term "inspected" refers to any instance in which the federal government can decide whether to take action against a person. To "inspect" something is to "examine [it] officially," "to look carefully," or to "make an examination." Inspect, Webster's Third

foreign country of concern and is not a citizen or lawful permanent resident of the United States.' . . . . The State [d]efendants argue that as a matter of Florida law, none [of the plaintiffs] is domiciled in China because each intends to reside in Florida indefinitely. The relevant issue, though, is whether [p]laintiffs' conduct is ' . . . proscribed by' the new law . . . . And [plaintiffs] Shen, Wang, and Liu have shown that they are arguably domiciled in China and risk violating §§ 692.203 and 692.204. The new law, which does not independently define 'domicile,' 'sweeps broadly,' . . . and arguably applies to [p]laintiffs." (quoting

to mean (1) "to view closely in critical appraisal"; and (2) "to examine officially." , MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/inspect (last visited May 21, 2024). "Absent a legislatively supplied definition," as the Defendants note, "we give [words their] 'plain and ordinary meaning' at the time of the statute's enactment, and we often look to contemporaneous dictionaries for evidence of that meaning." Response at 4 (quoting , 366 So. 3d 1020, 1028 (Fla. 2023)). That's a problem for the Defendants here because, as each of these definitions makes clear, the word "inspect" focuses on the actions of (and denotes some examination by) the inspector. He, after all, is the subject who must " officially," " carefully," " an examination," " closely," etc. By any of these definitions, then, a person who submits an application to the USCIS any evidence that some inspector actually " [it] officially," " [at it] carefully," or " [it] closely" would appear not to have been "inspected."

To circumvent the plain meaning of the word "inspect," our Defendants add words and phrases that don't appear in any of the available definitions. So, for instance, they say that the word "'[i]nspected' . . . denotes an to examine a person, not a final decision on the person's admissibility or legal status." Response at 4 (emphasis added). But we've seen no definition of "inspect" that includes "an to examine"—and it's not our role to "add[ ] to what the text states or reasonably implies ( )." A. SCALIA & B. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 93 (2012). Had the Florida legislature intended to exclude from the statute's coverage people who had been inspected those who had given the examiners an to inspect them, then the Defendants' arguments would have some merit. But it's our job to interpret the law as it was actually written—not the one the Defendants wish the legislature had promulgated. , 973 F.3d 1254, 1262 (11th Cir. 2020) ("Where [the legislature] knows how to say something but chooses not to, its silence is controlling." (cleaned up)); , 543 U.S. 335, 341 (2005) ("We do not lightly assume

that [the legislature] has omitted from its adopted text requirements that it nonetheless intends to apply, and our reluctance is even greater when [the legislature] has shown elsewhere in the same statute that it knows how to make such a requirement manifest"); , 25 F.4th 925, 935 (11th Cir. 2022) (refusing to read into the Oil Pollution Act a waiver of sovereign immunity because the legislature "knows how to waive sovereign immunity when it wants to"). Given

otherwise be spent on registration drives and election-day education and monitoring." 522 F.3d at 1165–66. Similarly, in , the Circuit found that the NAACP had standing because it "divert[ed] resources from its regular activities to educate and assist [affected individuals] in complying with the [challenged] statute[.]" , 554 F.3d 1340, 1350 (11th Cir. 2009). And, in , the court held that the organizational plaintiffs had standing because they "diverted resources to educate their members, staff, and volunteers on the consequences of the [challenged] law." 691 F.3d at 1260; . ("The enactment of H.B. 87 caused [the plaintiff] [Coalition of Latino Leaders] to receive an increased number of inquiries about the law, forcing it to divert volunteer time and resources to educating affected members of the community and fielding inquiries. As a result, CLL has cancelled citizenship classes to focus on these effects. According to CLL, 'these problems will only get worse if the bill goes into effect.'" (cleaned up)).

As with the organizational plaintiffs in these cases, the Farmworker Association has shown, through a sworn Declaration from its General Coordinator, that it's had to divert resources away from its regular activities to educate and assist affected individuals in their efforts to comply with Section 10 of SB 1718. Declaration of Nezahualcoyotl Xiuhtecutli (the "Xiuhtecutli Decl.") [ECF No. 30-3] ¶ 11(c) ("Since the beginning of 2023, I had intended to increase our agroecology educational work through workshops. However, to do this we need to hire an agroecology coordinator . . . . Because our resources—

farmworker coalitions, supporting worker's rights, improving working conditions, and safeguardingSon

Because we agree with the Plaintiffs that theirs is a reasonable interpretation of Section 10, we have trouble concluding that the statute is so vague that it fails to put reasonable people on notice of its meaning. , 553 U.S. 285, 304 (2008) (holding that a law is "void for vagueness" if it fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement"). In any event, without guidance from Florida's state courts (much less the Florida Supreme Court) on the meaning of Section 10, we hesitate to declare the statute vague—and, therefore, invalid.

, 414 U.S. 21, 22–23 (1973) ("The judgment of federal courts as to the vagueness or not of a state statute be made in the light of prior state constructions of the statute. For the purpose of determining whether a state statute is too vague and indefinite to constitute valid legislation we must take the statute as though it read precisely as the highest court of the State has interpreted it." (emphasis added & cleaned up)).[7]

More importantly, the Plaintiffs concede that their own conduct has been criminalized by Section 10. Motion to Proceed Anonymously at 13 ("[The Plaintiffs] engage in and, in the future, intend to engage in activity that Florida has newly criminalized—that is, driving or traveling with their noncitizen family members or members of the communities they serve into Florida . . . . Under Section 10 of SB 1718, this activity exposes them to mandatory arrest and detention [and] prosecution on

[7] The Plaintiffs add that "Florida legislators rejected numerous amendments that would have replaced

felony charges[.]"); Memorandum at 20 ("Individual Plaintiffs and FWAF members transport into Florida family members, co-workers, and others who entered unlawfully and who likely have not been 'inspected'

'indirectly' 'discourage[s]' undocumented immigrants 'from entering the State.' . . . . But Section 10 flatly prohibits their transport into the state, and criminalizes providing it."). We thus cannot agree that persons of reasonable intelligence would be unable to derive a "core meaning" from Section 10. S Motion to Proceed Anonymously at 1 ("Plaintiffs bring this lawsuit challenging a law that will criminalize their families' and friends' travel into Florida[.]"). The Plaintiffs, in short, haven't shown that they're likely to succeed on the merits of their due-process claim.

The Plaintiffs' preemption arguments are far stronger. As the Plaintiffs see it, "the Eleventh Circuit has squarely held, as a matter of both field and conflict preemption, that states cannot regulate the transport of immigrants, because federal law fully occupies that field and displaces even complementary state regulation. That clear holding is fatal to Section 10 and [is] sufficient to resolve this case." Memorandum at 9. In their view, because the "federal transport and harboring regime [ ] contained in 8 U.S.C. § 1324 . . . . establish[es] 'an overwhelmingly dominant federal interest in the field' of 'entry, movement, and residence of aliens in the United States,'" . at 9–10 (quoting

And several other circuits have come out the same way. , 732 F.3d 1006, 1025–26 & n.17 (9th Cir. 2013) (holding that an Arizona law that was "virtually indistinguishable" from "[t]he Georgia law in [ ]" was field preempted because of the "comprehensive nature of § 1324, its place within the INA's larger structure governing the movement and harboring of aliens, and § 1324(c)'s explicit but limited provision for state involvement");

, 720 F.3d 518, 530–

from another country" could refer to "alien[s] or citizen[s]." . In other words, according to the Defendants, "[Section] 787.07 does not regulate aliens, and it does not turn on a person's unlawful

"inspected" by the federal government. . at 15–16. But our courts have routinely rejected similar arguments. The state law in , for example, provided that a person commits a class 3 felony "if, for the purpose of assisting another person to enter, remain in, or travel through the United States or the state of Colorado in violation of immigration laws, he or she provides or agrees to provide transportation to that person in exchange for money or any other thing of value." 408 P.3d 445, 447 (Colo. 2017). Like our law, this Colorado statute regulated a broader set of people than just undocumented immigrants— ., anyone who violated the immigration laws. Still, the Supreme Court of Colorado held, citing , that the law was preempted by the INA "under the doctrine of field preemption." . at 452. The court reasoned that Congress has "evince[d] [an] intent to maintain a uniform, federally regulated framework for criminalizing and regulating the transportation, concealment, and inducement of unlawfully present aliens, and this framework is so pervasive that it has left no room for the states to supplement it." . at 452.

Similarly, in , the Arizona law at issue "swe[pt] more broadly than its federal counterpart by adding a new category of prohibited activities." 732 F.3d at 1028. Specifically, the Arizona law "criminalize[d] encouraging or inducing an alien to come to or reside in Arizona," while the federal harboring statute, 8 U.S.C. § 1324, "criminalizes encouraging or inducing an alien to come to or reside in the United States but [ ] does not penalize encouraging or inducing aliens, already in the United States, to travel from state to state or into any particular state." . Nonetheless, the Ninth Circuit held that the state law was preempted because, "although it shares some similar goals with 8 U.S.C. § 1324, it 'interfere[s] with the careful balance struck by Congress with respect to' the harboring

cannot, inconsistently with the purpose of Congress, conflict or interfere with, curtail or complement, the federal law, or enforce additional or auxiliary regulations.").

By making it a felony to transport into Florida someone who " has not been inspected by the Federal Government since his or her unlawful entry," Section 10 extends beyond the state's authority to make for violations of federal immigration law and, in so doing, intrudes into territory that's preempted. , 691 F.3d at 1264 (" In the absence of a savings clause permitting state regulation in the field, the inference from these enactments is that the role of the states is limited to arrest for violations of federal law [governing the transport or movement of an unlawfully present alien within the United States]."); , 724 F.3d at 316–17 (rejecting the argument that, " by authorizing state and local officials to arrest individuals guilty of harboring, 8 U.S.C. § 1324(c), Congress specifically invited state and local governments into this field"). For all these reasons, we hold that the Plaintiffs are likely to succeed on the merits of their conflict- and field-preemption claims.[9]

For the second prong of the preliminary-injunction test, the party seeking the injunction must show that " irreparable injury will be suffered unless the injunction issues[.]" , 403 F.3d at 1231. The individual Plaintiffs contend that, if we don't enjoin Section 10, they will " suffer irreparable harm by being placed at immediate risk of arrest, detention, and prosecution[.]" Memorandum at 20. They add that some " [i]ndividual Plaintiffs and FWAF members transport into Florida family members, co-workers, and others who entered [the United States] unlawfully and who likely have not been

[9] Because we've found that the Plaintiffs are likely to succeed on the merits of their conflict- and field-preemption claims, we needn't reach the Plaintiffs' other preemption arguments— , that Section 10 is preempted because it conflicts with the " federal removal scheme," Memorandum at 12, because it " impermissibly creates a novel immigration classification," . at 13, or because it " disrupts the adjudication of immigration applications and removal proceedings," . at 16.

'inspected' for purposes of Section 10, in possible violation of the law . . . . Under the broad language of Section 10, Plaintiffs and FWAF members face arrest, prosecution, mandatory detention, and family separation . . . . The threat of pre-trial detention and subsequent felony prosecution is severe harm that cannot be undone." .

Having reviewed the declarations of the three individual Plaintiffs who have established their standing to sue, we think that these three Plaintiffs have also shown that, absent an injunction, they would suffer irreparable injury. Ms. Mendoza, for instance, attests that she is willing to continue engaging in illegal conduct—thus risking actual or imminent criminal prosecution:

> Transporting individuals with various immigration statuses, including individuals who have never had any contact with immigration authorities, is a key part of my job[.] Currently, I spend about 30% of my time assisting people with transportation. In the past ten years, I have driven individuals into Florida dozens of times. These transportation services include taking people in my personal vehicle from Georgia to Florida for various reasons, including to see medical specialists in Jacksonville, Florida.
>
> I also personally transport [undocumented immigrants] to appointments with [USCIS] for fingerprinting and other services. Some immigrants in my nonprofit's area are directed to attend USCIS appointments in Jacksonville, even though they reside in Georgia . . . .
>
> One of the women in my community was released from the hospital a week or so ago after being admitted for renal failure. Her stomach had been getting bloated and she had no idea how close to death she was. She is a middle-aged undocumented woman from the state of Yucatan, Mexico . . . . I am 100% willing to transport her to Florida or anywhere else she needs to go to get the care she needs. SB 1718, however, has made me extremely anxious that my efforts to help this woman may result in significant jail time and prosecution for me.

Mendoza Decl. ¶¶ 5–6, 11, 14.

Ms. Mendoza is likely to suffer irreparable injury because "[t]he threat of criminal prosecution . . . constitutes irreparable harm" for purposes of a preliminary injunction. , 591 F. Supp. 2d 1272, 1309 (S.D. Fla. 2008) (Gold, J.); , 691 F.3d at 1269 (affirming the "district court's conclusion that [p]laintiffs have met their burden to enjoin enforcement of section 7" because the "[p]laintiffs are under the threat of state prosecution for crimes that conflict with

federal law, and . . . enforcement of a state law at odds with the federal immigration scheme is neither benign nor equitable"); , 732 F.3d at 1029 (holding that the individual plaintiff had "established a likelihood of irreparable harm" by "demonstrat[ing] a credible threat of prosecution under the statute"). So too here. Ms. Mendoza has established, through a sworn filing, that she faces a kind of Hobson's choice—between engaging in conduct

> I had planned to travel with my family to Texas, so that my children could visit their cousins and so that I could spend time with my brother and sister. Now, though, we can't take this trip. It is just too big a risk for my children and me. [My daughter] does not have an immigration case, and does not have any immigration status, even though she has applied for DACA. So, I am scared that she is not allowed to be brought back into Florida if we leave. And I don't know whether I can be driven back into Florida either, since I don't have any official status.
>
> I feel trapped not being able to take this trip, and I hated having to tell my family that it won't happen. It made me feel awful because finally after 6 years of being apart, my family was so close to finally being together again.

Medrano Rios Decl. ¶¶ 8, 10–11.

Mmes. Aragon and Medrano Rios have thus likewise demonstrated irreparable harm in the form of "indefinite family separation," which many courts around the country have "recognized . . . as a form of irreparable injury." , 475 F.

> Approximately 600 families that include dues-paying FWAF members left Florida at the end of the harvest season in May 2023. Most of these members are from the Immokalee and Fellsmere areas, who travel back and forth between Florida and northern states based on the growing season. Typically, these members would return in September 2023 for the squash, zucchini, chili pepper, tomatoes, lettuce, and other vegetable planting season. However, based on . . . our organizers' conversations with members, I anticipate that approximately 100 member families will not return if SB 1718 remains in effect, because they do not want to risk a felony charge. These same member families are unlikely to return for the vegetable harvesting seasons in the Florida winter and spring. FWAF will lose many of these members, the dues from those members, and the critical in-kind donations from those members that help run FWAF's programs.

Xiuhtecutli Decl. ¶ 39. He also explains that the Association diverted resources to prevent these harms, noting that staff has devoted additional time— —to provide "information and communications to [the Association's] members," who have "inundated [the Association] with questions and requests for assistance relating to travel between Florida, Georgia, and Alabama." . ¶¶ 32, 34; . ¶ 34 ("Since SB 1718 passed, and even before Section 10 went into effect, FWAF began providing Know Your Rights presentations to specifically prepare for and educate our members on the impacts of SB 1718, including Section 10. FWAF has conducted twelve Know Your Rights presentations thus far.

office gardens. This year, because we were to respond to the crisis brought on by SB 1718, and in particular concerns from our members about Section 10, we have struggled to maintain our garden in Pierson." (emphasis added)).

The Defendants also note that SB 1718 contains provisions outside of Section 10, and they contend that "many of the Association's allegations tie its diversion to the of SB 1718, not merely" Section 10. Response at 8. They take issue, for example, with Mr. Xiuhtecutli's attestation that the Association has begun providing "Know Your Rights presentations . . . on the impacts of SB 1718, including [Section 10]." . (quoting Xiuhtecutli Decl. ¶ 34). They also point to Mr. Xiuhtecutli's claims that the Association has "held member meetings regarding SB 1718, including Section 10," and that "staff received more calls each day since SB 1718 passed than we received prior to its passage." . (quoting Xiuhtecutli Decl. ¶ 35). We're not so troubled by these passages. There's no question that Mr. Xiuhtecutli's Declaration is focused on the impact of Section 10. , Xiuhtecutli Decl. ¶ 30 ("Not only are individual FWAF members harmed by Section 10, but FWAF as an organization has and will as an

Outside of their standing arguments, the Defendants advance just one argument for their position that the Plaintiffs suffering irreparable injury: The Plaintiffs (the Defendants say) moved too slowly to "properly serve the pending motion on the State Defendants"—and this delay (the Defendants contend) suggests that "they are not seriously concerned about irreparable harm." Response at 18–19. We disagree. Governor DeSantis signed SB 1718 into law on May 10, 2023; it went into effect in early July; and the Plaintiffs filed this lawsuit on July 17, 2023. Complaint. All the Defendants were served by August 22, 2023. Docket. While it's true that a plaintiff concerned about irreparable harm "would and should act swiftly to protect itself," , 2021 WL 2652774, at *10 (S.D. Fla. June 21, 2021) (Goodman, Mag. J.), , 2021 WL 3404040 (S.D. Fla. Aug. 4, 2021) (Moreno, J.), we don't think a week or two between a statute's enactment and the filing of the lawsuit challenging it constitutes unreasonable delay. And, given that the Plaintiffs filed their Motion for Preliminary Injunction on August 24, 2023—just two days after the last Defendant was served—we don't think they took too long to serve their motion either.

The final two factors of the preliminary-injunction test are whether the "threatened injury outweighs the harm the relief would inflict on the non-movant" and whether the "entry of th[at] relief would serve the public interest." , 403 F.3d at 1225–26. These two factors "merge when, as here, the government is the opposing party." , 978 F.3d 1266, 1271 (11th Cir. 2020) (cleaned up). The Defendants imply that an injunction against Section 10 will harm Florida's "interest in ensuring individuals in its territory are inspected[.]" Response at 19. Such an injunction (the Defendants fear) would prevent the state from identifying "drug traffickers [who] are successfully smuggling mass quantities of deadly illicit fentanyl past federal agents, wreaking havoc on Florida's citizens." . (cleaned up). We're unmoved.

For one thing, the Defendants never actually argue that their interest in rooting out drug traffickers the threatened injury to the Plaintiffs. They simply say that "Florida's interest in ensuring individuals in its territory are inspected is certainly legitimate."

outweighed by the harm Section 10 poses to the Plaintiffs to the United States, which has the ultimate interest in protecting federal supremacy in the realm of immigration.

The Defendants proffer one final argument on the equities: that the "Plaintiffs come to this Court with unclean hands." Response at 19. The Supreme Court has long adhered to the age-old maxim that "he who comes into equity must come with clean hands."

, 324 U.S. 806, 814 (1945). The Defendants' theory is that the Plaintiffs have unclean hands because their goal in requesting this preliminary injunction is to facilitate "illegal conduct such as driving without a license, working without authorization, and avoiding detection for criminal illegal entry." Response at 19. But this argument—alluring at first glance—fails on closer inspection because the Defendants haven't met the elements of the unclean-hands defense. "To assert an unclean hands defense," after all, "a defendant must show that (1) the plaintiff's wrongdoing is directly related to the claim, and (2) the defendant was personally injured by the wrongdoing."

, 776 F.3d 797, 801 (11th Cir. 2015). The party seeking equitable relief must also have committed an "unconscionable act." , 290 U.S. 240, 245 (1933).

The Defendants never argue that the Plaintiffs—some of whom are U.S. citizens—are engaged in wrongdoing. Ms. Mendoza, for instance, is a "U.S. citizen" who "ha[s] been a resident of Georgia for nearly forty years."

[p]laintiffs." , 2007 WL 1752843, at *2 (M.D. Fla. June 18, 2007) (Kovachevich, J.).

*   *   *

[illegible] the Court of a decision . . . by the Fifth Circuit, holding that a Texas immigration law is likely preempted." . at 1. In , the Fifth Circuit held that SB 4—a Texas statute prohibiting noncitizens from illegally entering or reentering the state—was "likely field preempted," affirming the district court's conclusion that "the federal government has both a dominant interest and a pervasive regulatory framework to control immigration into the United States, precluding state regulation in the area." 97 F.4th 268, 278, 288 (5th Cir. 2024). That holding, of course, is consistent with our Circuit's decision in —and, by extension, with our decision today. In dissent, however, Judge Oldham cautioned that "[t]he Supreme Court has never extended field preemption to any part of the immigration laws beyond alien registration." . at 298 (Oldham, J., dissenting). Judge Oldham may well be right: The Supreme Court, after all, seems never to have squarely held that the INA's framework for regulating the transportation, concealment, or harboring of aliens preempts the entire field. And we're sympathetic to Judge Oldham's admonition against "extend[ing] field preemption [illegible]

opinion of the Supreme Court or of this court sitting , we cannot overrule a decision of a prior panel of this court[.]" (emphasis added)). In our Circuit's view, "[g]iven the federal primacy in the field of enforcing prohibitions on the transportation, harboring, and inducement of unlawfully present aliens, the prospect of fifty individual attempts to regulate immigration-related matters cautions against permitting states to intrude into this area of dominant federal concern." , 691 F.3d at 1266. Bound by Eleventh Circuit precedent, we hold that the Plaintiffs are likely to prevail on their claim that Section 10 of SB 1718 is preempted by federal law—and that they have satisfied each of the other elements of their preliminary-injunction request.

We therefore as follows:

1. The Motion for Preliminary Injunction [ECF No. 30] is .
2. FLA. STAT. § 787.07 is .
3. The Defendants must take no steps to enforce FLA. STAT. § 787.07 until otherwise ordered. This preliminary injunction binds the Defendants and their officers, agents, servants, employees, and attorneys—and others in active concert or participation with them—who receive actual notice of this injunction by personal service or otherwise.

in the Southern District of Florida on May 22, 2024.

cc: counsel of record