

1 prohibition on employers intentionally or knowingly employing an unauthorized alien and
2 requirement that employers verify employment eligibility via the voluntary E-Verify
3 program threaten that balance and are preempted.

4 The balance of equities also overwhelmingly favors a stay to preserve the status
5 quo until plaintiffs' request for a preliminary injunction can be heard. Defendants will
6 suffer no real harm from simply maintaining the status quo. Indeed, it makes no sense for
7 the State of Arizona to implement and enforce an unconstitutional law with all the
8 associated disruption, burden, and cost to the State – and then to require the State to
9 return to the status quo ante, with more disruption, burden, and cost.

10 On the other hand, implementation of the Act will cause irreparable harm to
11 plaintiffs and to others in derogation of the public interest. Plaintiffs and many others
12 will have to comply with an unconstitutional law that requires costs and obligations to
13 sign up for and use the E-Verify system. Employers will be faced with State sanctions,
14 including revocation of their business licenses – the “business death penalty.” Employees
15 will be faced with termination and discrimination in hiring – even though they are eligible
16 for employment. This harm should be avoided while the Court reaches a decision on a
17 preliminary injunction.

18 RELIEF SOUGHT

19 Plaintiffs respectfully request that the Court grant this application as follows:

20 1. The Court should issue an immediate temporary restraining order, pending a
21 hearing on the request for a preliminary injunction, that enjoins defendants, their officials,
22 agents, employees, assigns, and all persons acting in concert or participating with them
23 from implementing or enforcing Section 2 of the Legal Arizona Workers Act;

24 2. The Court should issue an order to show cause why a preliminary injunction
25 should not issue to enjoin defendants from implementing or enforcing Section 2 of the
26 Legal Arizona Workers Act.

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SUPPORTING DOCUMENTS

The motion is based on this Application and the following documents: the Complaint; the Motion to Reassign and Consolidate; the Memorandum of Points and Authorities in Support of Motion for Temporary Restraining Order and Preliminary Injunction; the Declaration of Tyler Moran; the Declaration of Luz Sarmina; and the Declaration of Jonathan Weissglass (attaching two declarations from Edmundo Hidalgo and a declaration from Anthony Charles Forschino); the complete files and records of this action; and such other and further matters as the Court may properly consider.

NOTICE

Plaintiffs previously stated in the Motion to Reassign and Consolidate their intent to seek a temporary restraining order and preliminary injunction. Plaintiffs served that Motion by e-mail as reflected in the Certificate of Service. Unless otherwise requested or instructed, Plaintiffs will continue serving all documents by e-mail until Notices of Appearance are filed, and will serve the Summons and Complaint as soon as possible.

1 CERTIFICATE OF SERVICE

2 I hereby certify that on December 12, 2007, I electronically transmitted the
3 foregoing document to the Clerk's Office using the CM/ECF System for filing and e-
4 mailed the document to the following:

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28 COPY of the foregoing sent by overnight delivery
with Notice of Electronic Filing on December 12, 2007 to:

The Honorable Stephen M. McNamee
The Honorable Neil V. Wake
United States District Court
Sandra Day O'Connor U.S. Courthouse
401 West Washington Street
Phoenix, AZ 85003-2158

23 /s/ Sally Mendez