

1 STEPHANIE FLEISCHMAN CHERNY (SBN 025199)  
RICHARD L. BRUSCA<sup>†</sup>  
2 CHARLES F. WALKER<sup>†</sup>  
NEIL LOMBARDO<sup>†</sup>  
3 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
1440 NEW YORK AVE., NW  
4 WASHINGTON, DC 20005-2111  
TELEPHONE: (202) 371-7000  
5 Stephanie.Cherny@skadden.com  
Richard.Brusca@skadden.com  
6 Charles.Walker@skadden.com  
Neil.Lombardo@skadden.com

CESAR A. PERALES<sup>†</sup>  
FOSTER MAER<sup>†</sup>  
JOSE PEREZ<sup>†</sup>  
LATINOJUSTICE PRLDEF  
99 HUDSON STREET, 14<sup>TH</sup> FLOOR  
NEW YORK, NY 10013-2815  
TELEPHONE: (212) 219-3360  
cperales@latinojustice.org  
fmaer@latinojustice.org  
jperez@latinojustice.org

7  
8  
9  
10  
11 <sup>†</sup> APPLICATION FOR ADMISSION *PRO HAC VICE* PENDING OR FORTHCOMING  
12 ATTORNEYS FOR *AMICI CURIAE*, NATIONAL COUNCIL OF LA RAZA, *ET AL.*

13  
14 **IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

15 FRIENDLY HOUSE *et al.*,  
16 *Plaintiffs*,  
17 v.  
18 MICHAEL B. WHITING *et al.*,  
19 *Defendants*.

Case No. CV-10-01061-PHX-JWS

**LODGED: PROPOSED *AMICI  
CURIAE* BRIEF OF LA RAZA *et al.* IN  
SUPPORT OF PLAINTIFFS'  
MOTION FOR PRELIMINARY  
INJUNCTION**

20  
21 **PROPOSED BRIEF OF NATIONAL COUNCIL OF LA RAZA,  
22 UNITED STATES HISPANIC CHAMBER OF COMMERCE, THE  
23 HISPANIC NATIONAL BAR ASSOCIATION, AND LOS ABOGADOS  
HISPANIC BAR ASSOCIATION OF ARIZONA AS *AMICI CURIAE* IN  
SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**TABLE OF CONTENTS**

**INTRODUCTION** ..... 1

**ARGUMENT** ..... 1

**A. S.B. 1070 WILL HAVE A CHILLING EFFECT ON UNDOCUMENTED LATINO IMMIGRANTS ACCESSING ESSENTIAL EDUCATIONAL, MEDICAL, NUTRITIONAL, AND OTHER BENEFITS TO WHICH THEY ARE ENTITLED UNDER FEDERAL LAW AND THE CONSTITUTION.....** 1

**B. THE IMPLEMENTATION OF S.B. 1070 WILL FOSTER DISCRIMINATORY ANIMUS AGAINST LATINOS AND LEAD THOSE MOTIVATED BY SUCH ANIMUS TO HARASS LATINO RESIDENTS AND BUSINESSES .....** 4

**C. THE IMPLEMENTATION OF S.B. 1070 WILL SUBJECT LATINOS TO RACIAL PROFILING AND OTHER CIVIL RIGHTS VIOLATIONS BY STATE AND LOCAL LAW ENFORCEMENT OFFICIALS.....** 9

**CONCLUSION** ..... 16

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**Cases**

*Am. Trucking Ass'ns, Inc. v City of Los Angeles*,  
559 F.3d 1046 (9th Cir. 2009)..... 1

*Gonzalez-Rivera v. INS*, 22 F.3d 1441 (9th Cir. 1994)..... 13

*Johnson v City of Cincinnati*, 310 F.3d 484 (6th Cir. 2002)..... 8

*King v. new Rochelle Mun. Hous. Auth.*, 442 F.2d 646 (2d Cir. 1971)..... 8

*LULAC v. Wilson*, 997 F. Supp. 1244 (C.D. Cal. 1997)..... 13

*Lutz v. City of York., Pa.*, 899 F.2d 255 (3d Cir. 1990)..... 8

*Plyer v. Doe*, 457 U.S. 202 (1982) ..... 3

*United States v. Arvizu*, 534 U.S. 266 (2002)..... 13

*United States v. Brignoni-Ponce*, 422 U.S. 873 (1975) ..... 12

*United States v. Cortez*, 449 U.S. 411 (1981) ..... 13

**Statutes and Rules**

8 C.F.R. § 214.11(a) ..... 15

8 C.F.R. § 214.14(c)(2)(i) ..... 15

8 C.F.R. § 214.14(g) ..... 15

24 C.F.R. § 5.520..... 4

34 C.F.R. § 99.3..... 6

8 U.S.C. § 1101(a)(15)(T), (U) ..... 15

8 U.S.C. § 1184(p)(6) ..... 15

8 U.S.C. § 1357(g)..... 10

8 U.S.C. § 1621(b)(1-4)..... 3

20 U.S.C. § 1232g(a)(5)..... 6

1 42 U.S.C. § 1513(a)(2)(A) ..... 15

2 Ariz. Rev. Stat. § 11-1051(H) ..... 5, 6

3 Ariz. Rev. Stat. § 11-1051(B) ..... 7

4 Ariz. Rev. Stat. § 13-1509 ..... 15

5 Ariz. Rev. Stat. § 28-701.02..... 2

6 Pub. L. No. 104-193, 110 Stat. 2105 ..... 3

7 S.B. 1070 ..... *passim*

8

9 **Articles**

10 ACLU of North Carolina and UNC Chapel Hill Immigration & Human Rights Policy  
 Clinic, *The Policies and Politics of Local Immigration Enforcement Laws—287(g)*  
 11 *Program in North Carolina* (Feb. 2009) ..... 10, 12, 14

12 Jennifer M. Chacon, *A Diversion of Attention? Immigration Courts and the*  
 13 *Adjudication of Fourth and Fifth Amendment Rights*, 59 Duke L.J. 1563 (2010) ..... 11

14 Jessica Saunders, Nelson Lim & Dom Prosnitz, Rand Center on Quality  
 Policing, *Enforcing Immigration Law at the State and Local Levels: A Public Policy*  
 15 *Dilemma* ..... 14

16 Leadership Conference on Civil Rights, *Cause for Concern: Hate Crimes in America*  
 17 (1997) ..... 13

18 Mary Romero & Marwah Serag, *Violation of Latino Civil Rights Resulting From INS*  
 19 *and Local Police's Use of Race, Culture and Class Profiling: The Case of the*  
 20 *Chandler Roundup in Arizona*, 52 Clev. St. L. Rev. 75 (2005) ..... 10

21 Southern Poverty Law Center, *Under Siege: Life for Low-Income Latinos in the*  
 22 *South* (Apr. 2009) ..... 14

23 Tennessee Immigration and Rights Coalition, *Arrests for No Drivers License by*  
 24 *Ethnicity and Race: A Comparison of May-July 2006 and May-July 2007*  
 (July 31, 2007) ..... 11

25 Trevor Gardner II & Aarti Kohli, *The C.A.P. Effect: Racial Profiling in the ICE*  
 26 *Criminal Alien Program* (Sept. 2009) ..... 10-11

1 U.S. Department of Homeland Security, Office of Inspector General, *The*  
2 *Performance of 287(g) Agreements* (Mar. 2010) ..... 10  
3 U.S. Department of Homeland Security, Office of Public Affairs, *Section 287(g)*  
4 *Immigration and Nationality Act Fact Sheet* (Aug. 16, 2006) ..... 11  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

## INTRODUCTION

*Amici* National Council of La Raza *et al.* submit this brief in support of Plaintiffs' proposed Motion for Preliminary Injunction (Docket No. 70), lodged on June 4, 2010. Rather than expanding upon the Plaintiffs' constitutional arguments, which *amici* fully support, this brief seeks to demonstrate how S.B. 1070, if implemented, will disrupt the federal scheme to provide essential services to non-citizens without respect to immigration status, foster discriminatory animus against Latinos, and subject Arizona's Latino community to repeated civil rights violations, especially racial profiling.<sup>1</sup>

## ARGUMENT

### A. **S.B. 1070 Will Have A Chilling Effect On Undocumented Latino Immigrants Accessing Essential Educational, Medical, Nutritional, and Other Benefits to Which They Are Entitled Under Federal Law and the Constitution**

S.B. 1070's reporting requirement will have a profound chilling effect on the constitutional right of certain Latino children to an education, a benefit that *amici* provide. Some Latino families have already begun to keep their children out of school because they fear S.B. 1070 will force teachers, school administrators and police officers assigned to patrol schools to verify the immigration status of students and their parents.<sup>2</sup> Parents of students at Phoenix Union High School District, for example, have asked that the district prohibit police officers assigned to patrol its schools from complying with S.B. 1070's provisions, in part

---

<sup>1</sup> This brief demonstrates that three of the criteria required for a preliminary injunction are satisfied here: (1) Plaintiffs will suffer irreparable harm without an injunction, (2) the equities favor the Plaintiffs, and (3) an injunction is in the public interest. *Am. Trucking Ass'ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009).

<sup>2</sup> Pat Kossan, *Schools See Immigrant Families Departing*, The Arizona Republic, May, 28, 2010, at A1; Sadie Jo Smokey, *Residents Demand That District Defy Migrant Law*, The Arizona Republic, May 8, 2010, at B1; Meena Hartenstein, *Arizona Hispanics Flee State In Drove Before New Immigration Law S.B. 1070 Takes Effect In July*, New York Daily News (June 11, 2010), [http://www.Nydailynews.com/news/national/2010/06/11/2010-06-11\\_arizona\\_hispanics\\_flee\\_state\\_before\\_new\\_immigration\\_law\\_takes\\_effect\\_in\\_july.html](http://www.Nydailynews.com/news/national/2010/06/11/2010-06-11_arizona_hispanics_flee_state_before_new_immigration_law_takes_effect_in_july.html).

1 because these parents are unwilling to continue participating in carpools out of fear they may  
2 be arrested under the statute's provision making it a crime to transport undocumented  
3 immigrants.<sup>3</sup> Other parents have begun to withdraw their children from school entirely. A  
4 charter school in Arizona run by NCLR affiliate Luz Social Services has recently seen four of  
5 its Latino students withdraw because of S.B. 1070. Similarly, Balsz Elementary District in  
6 east Phoenix lost 70 families in the month prior to the signing of S.B. 1070, an attrition rate  
7 that school officials say is unprecedented.<sup>4</sup> Alhambra elementary schools in west Phoenix  
8 have reported that the statute will drive out 200 to 300 students over this summer.<sup>5</sup>  
9 Administrators warn that this precipitous decline in enrollment will reduce the amount of  
10 funding these schools receive without a commensurate reduction in costs.<sup>6</sup> These  
11 administrators are gravely concerned that this additional attrition will exacerbate recent budget  
12 cuts to such an extent that they will be unable to provide basic educational services, such as  
13 hiring reading specialists and tutors, or maintaining class sizes at appropriately small levels.<sup>7</sup>  
14 S.B. 1070 will therefore reduce the resources available to all remaining students in these  
15 schools.

16 Should S.B. 1070 be allowed to stand, Arizona's district and charter schools will likely  
17 see an exodus of Latino students next fall. This exodus will affect the entire community, as the

---

18  
19 <sup>3</sup> Smokey, *supra* note 2 (noting that 193 schools in 63 districts have police officers,  
20 known as "school-resource officers," assigned to them with the help of federal funding);  
21 S.B. 1070, § 5, 2010 Ariz. Legis. Serv. ch. 11 (West) (to be codified at Ariz. Rev. State §  
22 13-2929) (making it unlawful for someone "in violation of a criminal offense" to transport  
23 an undocumented immigrant) Under Arizona law, many minor traffic offenses—including  
24 speeding and failing to stop after striking a parked vehicle—are criminal offenses, albeit  
25 misdemeanors. *See* Ariz. Rev. Stat. § 28-701.02 (speeding a Class 3 misdemeanor when  
26 exceeding the limit by more than 20 m.p.h.).

<sup>4</sup> Hartenstein, *supra* note 2.

<sup>5</sup> *Id.*

<sup>6</sup> Kossan, *supra* note 2 (School administrators note that losing 10 students at one  
grade level will not necessarily save a teacher's salary or reduce the district's property  
maintenance costs).

<sup>7</sup> *Id.*

1 families that remain will see friendships severed, school sports teams bereft of players, and  
2 other school activities deprived of participants. Indeed, parents at Balsz Elementary District  
3 report that their community is already unraveling because many Latino parents are afraid to  
4 participate in regular school activities, such as acting as crossing guards, a situation that  
5 jeopardizes the safety of all students who walk to school.<sup>8</sup> Moreover, this exodus may not be  
6 limited to students who are undocumented immigrants, for it will likely include students who  
7 are themselves U.S. citizens, but who have a parent who is an undocumented immigrant. This  
8 result contravenes the Supreme Court's holding in *Plyler v. Doe* that all children—even  
9 undocumented children—are entitled to a primary and secondary education.<sup>9</sup>

10 This chilling effect could extend to other public benefits that are provided regardless of  
11 immigration status. Congress has elected to make certain essential federal public benefits  
12 available to non-citizens without respect to immigration status, benefits that *amici* help Latino  
13 immigrants to obtain.<sup>10</sup> For example, federal law entitles non-citizens, without respect to  
14 immigration status, to receive emergency Medicaid assistance, participate in immunization  
15 programs and school breakfast and lunch programs, receive testing and treatment for  
16 communicable diseases, and to receive certain forms of disaster relief.<sup>11</sup> In providing these  
17 benefits, Congress intended to prevent needless physical suffering, and to make available  
18 certain limited protections for the well-being of all immigrants. Moreover, federal law makes  
19 certain additional benefits, such as Section 8 housing assistance, available to households that  
20 include undocumented immigrants. This ensures that these "mixed status" low-income  
21 families can obtain the basic necessity of housing.<sup>12</sup> The chilling effect that S.B. 1070 is

22 \_\_\_\_\_  
23 <sup>8</sup> Kossan, *supra* note 2.

24 <sup>9</sup> 457 U.S. 202 (1982).

25 <sup>10</sup> In passing the Personal Responsibility and Work Opportunity Reconciliation Act of  
26 1996, Congress elected to make certain public benefits available to all U.S. residents,  
regardless of immigration status. *See* Pub. L. No. 104-193, § 411(b), 110 Stat. 2105.

<sup>11</sup> 8 U.S.C. § 1621(b)(1-4) (2010).

<sup>12</sup> *See* 24 C.F.R. § 5.520 (mixed households that include members who are ineligible  
for benefits have their assistance prorated according to the number of eligible members).



1 already having on Latino students could well extend to Latino families in desperate need of  
2 these additional congressionally authorized benefits.

3 S.B. 1070 is not only bad law, but bad public policy as well. Although SB 1070 will  
4 affect citizens and non-citizens from all races and ethnicities, the most immediate effects  
5 of the law will be borne by Latinos. By effectively excluding certain Latino children from  
6 schools (and thereby from school lunch programs), and by effectively denying certain  
7 impoverished Latinos access to emergency medical treatment, S.B. 1070 will place the health  
8 and welfare of some of the Latino community's most vulnerable members at risk. In addition,  
9 by denying some portions of the Latino community access to public immunization programs  
10 and treatment for communicable diseases, S.B. 1070 poses an acute risk to the health of all  
11 Arizona residents—indeed, to all U.S. residents.

12 **B. The Implementation of S.B. 1070 Will Foster Discriminatory Animus**  
13 **Against Latinos and Lead Those Motivated By Such Animus to Harass**  
14 **Latino Residents and Businesses**

15 Perhaps the most troubling aspect of S.B. 1070 is how it legitimizes, and thus fosters,  
16 discrimination against Latinos. There is no question that the true target of S.B. 1070 is  
17 Arizona's Latino immigrant community.<sup>13</sup> The institutionalized racism that S.B. 1070  
18 represents has already had a significant polarizing effect, and its implementation will only  
19 further divide the State's residents along racial lines.<sup>14</sup> This divisive influence will be  
20 sharpened when S.B. 1070 takes effect, as enforcement of the statute will likely give rise to

---

21 <sup>13</sup> Statement by Gov. Jan Brewer Upon Signing S.B. 1070 (Apr. 23, 2010),  
22 [http://azgovernor.gov/dms/upload/PR\\_042310\\_StatementByGovernorOnSB1070.pdf](http://azgovernor.gov/dms/upload/PR_042310_StatementByGovernorOnSB1070.pdf)  
23 ("We cannot delay while the destruction happening south of our international border  
24 creeps its way north."); Alia Beard Rau, *Poll: Latinos In U.S. Legally Say They Will Be*  
25 *Targeted*, The Arizona Republic (May 6, 2010), [http://azcentral.com/news/articles/2010/](http://azcentral.com/news/articles/2010/05/06/20100506arizona-immigration-law-la-raza-poll.html)  
26 [05/06/20100506arizona-immigration-law-la-raza-poll.html](http://azcentral.com/news/articles/2010/05/06/20100506arizona-immigration-law-la-raza-poll.html) (a poll of registered Latino  
voters in Arizona revealed concern that police will target them and other legal residents  
for stops and questioning) [hereinafter Rau, *Poll*].

<sup>14</sup> Rau, *Poll*, *supra* note 13 (noting that 70% of the Latinos who participated in the  
poll strongly oppose S.B. 1070, while another 11% somewhat opposed it).

1 regular media reports of investigations, raids, and arrests of Latinos, which will reinforce the  
2 stereotype that most Latinos lack lawful immigration status. These reports may further  
3 embolden anti-immigrant advocates, and encourage them to "enforce" S.B. 1070 themselves  
4 by invoking the statute's provisions that enable citizens to pressure local law enforcement  
5 agencies to intensify their immigration enforcement activities.<sup>15</sup> Because Latinos constitute at  
6 least 30% of Arizona's population, S.B. 1070's disruptive effects will extend to all aspects of  
7 society, which *amici* will see daily through their efforts.

8 For example, public schools are required to document the residence and educational  
9 history of each new student. If this information reveals that the student's family recently  
10 immigrated from Mexico or a Latin American country, it could be viewed as evidence that the  
11 student or someone in her family is undocumented. And, because S.B. 1070 makes it illegal  
12 for any governmental entity, such as a public school, to prohibit the transfer of such  
13 information to law enforcement agencies in contravention of federal law,<sup>16</sup> this information  
14

---

15 <sup>15</sup> Ariz. Rev. Stat. 11-1051(H) (allowing a legal resident of Arizona to bring an action  
16 in Superior Court against any official or agency of the State for adopting or implementing  
17 a policy that limits or restricts the enforcement of federal immigration laws). One  
18 example of an anti-immigrant group is the Minutemen. The Mohave County Minutemen's  
19 website describes the group as: "a neighborhood [sic] watch with the only goal to watch  
20 and report to our local, state and federal authorities every Illegal alien's activities in our  
21 communities. . . . Simple as that! Our weapons of choice are video cameras and photo  
22 cameras, maybe with a "magnum" zoom, and of course "smoking" cell phones to turn the  
23 Illegals in! We are also a political action group. That means we are active in supporting  
24 good politicians who are against illegal alien invaders. Let's not call them illegal  
25 immigrants, please. And we will do everything we can under our 1st Amendment to make  
26 the political life miserable for the politician traitors on the payroll of foreign countries like  
Mexico. Our ultimate goal is to remove them from office." *See* Mohave Minutemen  
Home Page, <http://mohaveminutemen.com/whatweare.htm>.

<sup>16</sup> The Family and Educational Right and Privacy Act of 1974 ("FERPA"), codified at 20  
U.S.C. § 1232g, establishes privacy guidelines for education records of schools that  
receive federal funding. FERPA prohibits schools from releasing so-called "directory  
information," which includes the student's place of birth and the last educational  
institution attended by the student, without the student's consent. *See* 20 U.S.C. §  
1232g(a)(5); 34 C.F.R. § 99.3. Even so, a newly enrolled Latino student's refusal to

1 could ultimately be used to deport the student or someone in her family. *Amici* that provide  
2 educational services are concerned that certain citizens may compel law enforcement agencies  
3 to gather such information from *amici* by threatening to bring lawsuits under S.B. 1070's  
4 provisions allowing citizens to sue law enforcement agencies that fail to enforce federal  
5 immigration laws with sufficient vigor.<sup>17</sup> This risk may well dissuade some Latino families  
6 from enrolling their children in school.

7 In addition to intensifying racial antipathy toward Latinos, S.B. 1070 provides the  
8 means for those so motivated, such as the Mohave County Minutemen, to engage in improper  
9 and repeated harassment of Arizona's Latino community.<sup>18</sup> As noted, S.B. 1070 empowers  
10 citizens to file lawsuits against government agencies whenever these citizens are dissatisfied  
11 with the agencies' immigration-enforcement efforts.<sup>19</sup> This provision could severely  
12 undermine the discretion that governmental agencies and employees normally enjoy in  
13 performing their duties, as it would enable private citizens to pressure law enforcement  
14 agencies to adopt ever more aggressive immigration-enforcement measures.<sup>20</sup> Indeed, this is  
15 already occurring. Police officials in Tucson report that, the day after S.B. 1070 was signed  
16 into law, their office was flooded with calls demanding that they dispatch officers to  
17 investigate "some Mexicans standing on the corner."<sup>21</sup>

---

18  
19 disclose this information to law enforcement agencies could be viewed as evidence that  
20 the student or one of her parents may be in this country without permission.

21 <sup>17</sup> Ariz. Rev. Stat. § 11-1051(H).

22 <sup>18</sup> See Minutemen website, *supra* note 15.

23 <sup>19</sup> See *supra* note 17.

24 <sup>20</sup> There is evidence that unlawful profiling at the behest of private citizens has  
25 occurred in connection with prior efforts by local police departments to enforce  
26 immigration laws. Sheriff Arpaio of Maricopa County receives numerous requests from  
private citizens to detain undocumented immigrants. See Maricopa County Sheriff's  
Office Website, <http://www.mcso.org/index.php?a=GetModule&mn=Posse>, and utilizes a  
public hotline in enforcing local ordinances. [http://www.mcso.org/include/pr\\_pdf/CC.pdf](http://www.mcso.org/include/pr_pdf/CC.pdf).

<sup>21</sup> See Peter Slevin, *Arizona Law On Immigration Puts Police In Tight Spot*, The  
Washington Post, Apr. 30, 2010, at A01 (Tucson's Police Chief further notes that police

1           The statute creates an additional, more insidious, method of harassment. S.B. 1070  
2 requires law enforcement agencies to investigate the immigration status of anyone subject to a  
3 "lawful stop, detention, or arrest" when enforcing any "law or ordinance of a county, city, or  
4 town," provided a reasonable suspicion exists that the detained individual is in this country  
5 with "unlawful presence."<sup>22</sup> This provision could transform the routine enforcement of local  
6 ordinances into carefully targeted immigration raids. A simple complaint to the police—  
7 whether legitimate or not—that a homeowner or business owner of Latino descent has violated  
8 a city ordinance could trigger an investigation into the owner's immigration status. The  
9 individual filing the original complaint can easily ensure that the investigating officers will  
10 inquire into the owner's immigration status by making a few carefully selected allegations—  
11 again, whether legitimate or not—such as that the supposed violator recently arrived from  
12 Mexico, rarely speaks English, or seems afraid to go out in public. Under S.B. 1070's  
13 imminent threat of legal action by dissatisfied citizens, the investigating officers may feel  
14 compelled to inquire into the immigration status of the alleged violator, despite their better  
15 judgment.

16           S.B. 1070 will thus arm certain segments of our society with a powerful weapon of  
17 intimidation and harassment, allowing them to report their Latino neighbors and coworkers—  
18 or anyone of Latino descent they happen to dislike—to the police. A simple complaint of  
19 excessive noise due to a barking dog or a festive party would be sufficient to trigger an  
20 investigation into a Latino neighbor's immigration status. Likewise, a complaint that a Latino  
21 restaurant's patrons are violating parking codes, or are otherwise disturbing the peace, could  
22 trigger an investigation into the restaurant's owner's status, as well as that of his patrons. S.B.  
23 1070 could lead to a constant stream of complaints against Latinos at their homes and  
24 businesses.

25 \_\_\_\_\_  
26 departments are "going to get beaten up on" because of S.B. 1070's provision allowing  
citizens to sue police departments).

<sup>22</sup> Ariz. Rev. Stat. § 11-1051(B).

1 In fact, the discriminatory animus embodied in S.B. 1070 is already hampering  
2 Arizona's business owners. According to one group that helps small businesses obtain  
3 financing, Arizona's businesses have recently seen a sharp decline in revenues because many  
4 in the Latino community—whose annual purchasing power is estimated at \$31 billion<sup>23</sup>—are  
5 choosing to stay at home rather than risk being harassed by police every time they go out to  
6 shop or dine at a restaurant.<sup>24</sup> S.B. 1070's implicit threats of discrimination and harassment are  
7 therefore impeding commerce, while also effectively denying the Latino community its right  
8 to travel freely.<sup>25</sup> Moreover, experience teaches that this situation will only deteriorate if S.B.  
9 1070 is allowed to take effect. When the Maricopa County Sheriff's Office ("MCSO")  
10 engaged in a three-day immigration raid in 2009, the city of Mesa became a "ghost town."<sup>26</sup>  
11 Small businesses had to close, and workers "stayed home to avoid being pulled over and  
12 questioned for documents."<sup>27</sup> Should S.B. 1070 take effect, it could severely disrupt Arizona's  
13 economy at a time when Arizona's residents can ill afford it.

14 At some point, Latinos targeted by frivolous complaints and harassment may yield to  
15 the pressure and leave the State, if only to avoid harassment. In fact, press reports indicate that  
16 both legal and undocumented Latinos are already doing so.<sup>28</sup> If S.B. 1070 takes effect, Latinos

---

17 <sup>23</sup> Tim Gaynor, *Arizona Immigration Law Hits Latino Businesses*, Reuters, May 11,  
18 2010, <http://www.reuters.com/article/idUSTRE64A4EY20100511>.

19 <sup>24</sup> Eugene Scott, *Latino-Focused Shops Feeling Impact of Bill*, The Arizona Republic,  
20 May 11, 2010, at D3 (business owners catering to Phoenix's Hispanic population saw  
21 business drop by as much as 60% shortly before and after passage of S.B. 1070; many  
22 such businesses are contemplating closing).

23 <sup>25</sup> *Johnson v. City of Cincinnati*, 310 F.3d 484, 498 (6th Cir. 2002), *cert. denied* 539  
24 U.S. 915 (2003) ("we hold that the Constitution protects a right to travel locally through  
25 public spaces and roadways."); *accord Lutz v. City of York, Pa.*, 899 F.2d 255, 268 (3d  
26 Cir. 1990); *King v. New Rochelle Mun. Hous. Auth.*, 442 F.2d 646 (2d Cir. 1971).

27 <sup>26</sup> Valeria Fernández, *Profiling Persists Despite Revamped Guidelines*, Inter Press  
28 Service (July 30, 2009), <http://www.ipsnews.org/news.asp?idnews=47894> [hereinafter  
29 Fernández, *Profiling Persists*].

30 <sup>27</sup> *Id.*

31 <sup>28</sup> Alan Gomez, *Hispanics Flee Arizona Ahead of Immigration Law*, USA TODAY  
(June 8, 2010), [http://www.usatoday.com/news/nation/2010-06-08-immigration\\_N.htm](http://www.usatoday.com/news/nation/2010-06-08-immigration_N.htm)

1 will live in an Orwellian world, fearful that every minor dispute with a neighbor, coworker or  
2 acquaintance could trigger a report to the police or other local law enforcement agency. Of  
3 course, this is a stigma that Latinos alone will bear. The approximately 500,000 Canadian  
4 "snowbirds"<sup>29</sup> who spend their winters in Arizona each year certainly will not be subjected to  
5 the demeaning stops, arrests and inquiries Latinos will likely endure once S.B. 1070 takes  
6 effect.

7 **C. The Implementation of S.B. 1070 Will Subject Latinos to Racial**  
8 **Profiling and Other Civil Rights Violations by State and Local Law**  
9 **Enforcement Officials**

10 Should S.B. 1070 be permitted to take effect, the incidence of racial profiling of  
11 Latinos by law enforcement agencies will rise dramatically. By requiring state and local law  
12 enforcement agencies to enforce immigration laws without the necessary training,<sup>30</sup> S.B. 1070  
13 could lead to situations reminiscent of the nation's most appalling anti-immigrant episodes,  
14 such as the "Chandler Roundup," which led to the wrongful detainment and arrest of U.S.  
15 citizens and legal residents.<sup>31</sup> Local police agencies have learned that it is often a "disastrous

---

16 ("figures, reports from school officials, businesses and individuals indicate worried  
17 Hispanics — both legal and illegal — are leaving the state in anticipation [of S.B.  
18 1070]"); Gaynor, *supra* note 21 (many Latinos have left the state, leading some Latino  
19 business owners to consider doing the same).

20 <sup>29</sup> Kerry Fehr-Snyder, *Exchange Rate Treating Canadians Kindly*, The Arizona  
21 Republic, Jan. 25, 2008, at 4 (reporting that, in 2006, more than 495,000 Canadians spent  
22 their winter in Arizona; these individuals are known colloquially as "snowbirds.").  
According to the Canada Arizona Business Council, 517,000 Canadian snowbirds visit  
Arizona each year, spending \$441 million. See Canada Arizona Business Council Home  
Page, <http://www.canaz.net/>.

23 <sup>30</sup> Evan Wyloge, *Police Agencies Can Set Own Immigration Policies, Opt Out of*  
24 *Training*, Arizona Capitol Times (May 19, 2010), <http://azcapitoltime.com/blog/2010/05/19/agencies-can-set-own-immigration-policies-opt-out-of-training/>.

25 <sup>31</sup> Mary Romero & Marwah Serag, *Violation of Latino Civil Rights Resulting From*  
26 *INS and Local Police's Use of Race, Culture and Class Profiling: The Case of the*  
*Chandler Roundup in Arizona*, 52 Clev. St. L. Rev. 75, 79-86 (2005). In 1997, Chandler,  
Arizona launched an anti-immigrant enforcement program in which anyone of Latino  
descent who could not provide proof of citizenship or lawful residence was arrested. The

1 and expensive" mistake to involve them in immigration enforcement, and that such efforts  
2 foster widespread racial profiling and other civil rights violations.<sup>32</sup> For example, Immigration  
3 and Nationality Act § 287(g) allows the United States Attorney General to delegate  
4 immigration enforcement functions to specified state and local law enforcement agencies.<sup>33</sup> A  
5 recent report by the Department of Homeland Security's ("DHS") Office of the Inspector  
6 General, however, found that many state and local officers enrolled in the 287(g) program are  
7 being investigated or sued for civil rights violations.<sup>34</sup> Studies by private entities confirm that  
8 the 287(g) program sometimes results in local law enforcement agencies engaging in racial  
9 profiling and "baseless stereotyping."<sup>35</sup>

10  
11  
12  
13 Chandler Roundup (as it became known) led to the wrongful detention and arrest of  
14 numerous U.S. citizens and legal residents based on skin color. *Id.*

15 <sup>32</sup> Craig E. Ferrell, Jr., *Immigration Enforcement: Is It a Local Issue?*, 71 *The Police*  
16 *Chief*, No. 2, Feb. 2004; *see also* ACLU of North Carolina and UNC Chapel Hill  
17 *Immigration & Human Rights Policy Clinic, The Policies and Politics of Local*  
18 *Immigration Enforcement Laws—287(g) Program in North Carolina*, 43-47 (Feb. 2009),  
19 <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf> [hereinafter  
20 *ACLU, Local Immigration*].

21 <sup>33</sup> 8 U.S.C. § 1357(g) (2010).

22 <sup>34</sup> The report describes how one state agency improperly engaged in "random street  
23 operations" to target "minor offenses and violations of local ordinances," even though the  
24 287(g) program does not allow state and local agencies to perform such operations. In  
25 addition, although 287(g) officers are only authorized to use federal immigration authority  
26 to take people into custody as a result of violating state or local criminal law, the OIG  
report found incidents of immigrants being arrested for federal immigration violations  
without prior arrests on state or local charges. U.S. Department of Homeland Security,  
Office of Inspector General, *The Performance of 287(g) Agreements* (March 2010),  
[http://www.dhs.gov/xoig/assets/mgmttrpts/OIG\\_10-63\\_Mar10.pdf](http://www.dhs.gov/xoig/assets/mgmttrpts/OIG_10-63_Mar10.pdf).

<sup>35</sup> *ACLU, Local Immigration, supra* note 32, at 29; Trevor Gardner II & Aarti Kohli,  
*The C.A.P. Effect: Racial Profiling in the ICE Criminal Alien Program*, 4-5 (Sept. 2009),  
[http://www.law.berkeley.edu/files/policybrief\\_irving\\_FINAL.pdf](http://www.law.berkeley.edu/files/policybrief_irving_FINAL.pdf) (finding "compelling  
evidence" of "aggressive" racial profiling of Hispanics by Irving, TX police officers after  
they began participating in the criminal alien program).

1           Of particular relevance here, at least two lawsuits have been filed against the MCSO for  
2 racial profiling committed in connection with its 287(g) enforcement activities.<sup>36</sup> This has led  
3 the Department of Justice to launch its own investigation,<sup>37</sup> and has caused DHS to strip the  
4 MCSO of its authority to conduct immigration screenings in the field.<sup>38</sup> Thus, by reinstating  
5 MCSO's authority to conduct immigration screenings, S.B. 1070 creates a direct conflict with  
6 the federal immigration scheme. The intensive federal training and oversight that the MCSO  
7 was forced to undergo when it joined the 287(g) program clearly did not prevent it from  
8 engaging in racial profiling.<sup>39</sup> Nor did it prevent certain other local law enforcement agencies  
9 that participated in the 287(g) program from doing so.<sup>40</sup> None of this is to say that the 287(g)

---

10 <sup>36</sup> J.J. Hensley, *Arpaio May Lose Some Immigrant Authority*, The Arizona Republic,  
11 Oct. 3, 2009, at 1.

12 <sup>37</sup> Miriam Jordan, *Arizona Sheriff, U.S. in Standoff Over Immigration Enforcement*,  
13 The Wall Street Journal (Feb. 10, 2010), <http://online.wsj.com/article/SB10001424052748703455804575057650062572536.html>.

14 <sup>38</sup> Hensley, *supra* note 36.

15 <sup>39</sup> The 287(g) program requires local law enforcement officers to receive five weeks  
16 of training from Immigration and Customs Enforcement officers on immigration law and  
17 procedures. The U.S. Immigration and Customs Enforcement Academy sets standards  
18 and testing for the program, as well. See U.S. Department of Homeland Security, Office  
19 of Public Affairs, *Section 287 (g) Immigration and Nationality Act Fact Sheet*, 3 (Aug. 16,  
20 2006), <http://www.ice.gov/doclib/pi/news/factsheets/060816dc287gfactsheet.pdf>.

21 <sup>40</sup> Fernández, *Profiling Persists*, *supra* note 26 (noting MCSO's practice of  
22 conducting raids in Latino neighborhoods); Jennifer M. Chacon, *A Diversion of Attention?*  
23 *Immigration Courts and the Adjudication of Fourth and Fifth Amendment Rights*, 59  
24 Duke L.J. 1563, 1618 (2010) ("racial profiling . . . has a long history of surfacing when  
25 local law enforcement becomes engaged in immigration enforcement."); Tennessee  
26 Immigrant and Refugee Rights Coalition, *Arrests for No Drivers License by Ethnicity and  
Race: A Comparison of May-July 2006 to May-July 2007*, 1 (July 31, 2007),  
<http://tirrc.bondwaresite.com/photos/File350.pdf>. (noting a 50% increase in arrests of  
Latinos for driving without a license after implementation of 287(g) program); David C.  
Volk, *Police Join Feds to Tackle Immigration*, Stateline.org (Nov. 27, 2007),  
<http://stateline.org/live/details/story?contentId=259949> (58% of motorists stopped by  
287(g)-trained officers were Latino even though Latinos make up less than two percent of  
the local population); Andria Simmons, *Is Sheriff a Hero or Racial Profiler?*, Atlanta J. &  
Const., Oct. 12, 2009, at 1A (noting numerous accounts of racial profiling by Atlanta  
officers).



1 program is wholly unworkable, but these incidents demonstrate the vital importance of federal  
2 training and continuous oversight to ensure that local law enforcement agencies do not abridge  
3 core constitutional protections when enforcing immigration laws.

4 *Amici* do not assert local police officers will engage in racial profiling as a matter of  
5 policy. But faced with the threat of lawsuits for less than zealous enforcement efforts—and  
6 without any plausible alternative techniques to racial profiling since immigration status is not  
7 readily determinable otherwise—these officers will be pressured to utilize the same improper  
8 tactics that some other law enforcement agencies have employed when required to enforce  
9 immigration laws, including targeting Latinos for pretextual traffic stops,<sup>41</sup> conducting raids  
10 and setting up roadblocks in Latino neighborhoods,<sup>42</sup> and relying on proxies for race and  
11 immigration status, such as conversing in Spanish.<sup>43</sup> Arizona's law enforcement agencies have  
12 already admitted as much.<sup>44</sup> And, as the Ninth Circuit has recognized, racial stereotypes are so

---

13  
14 <sup>41</sup> ACLU, *Local Immigration*, *supra* note 32, at 29, 46 (noting that the majority of  
15 287(g) arrests occurred in connection with traffic stops); *United States v. Brignoni-Ponce*,  
16 422 U.S. 873, 884 (1975) (prohibiting the use of traffic stops as a pretext to investigate the  
17 immigration status of the vehicles' occupants).

18 <sup>42</sup> Fernández, *Profiling Persists*, *supra* note 26 (reporting on the Maricopa County  
19 Sheriff's Office's practice of conducting raids in Hispanic neighborhoods); ACLU, *Local*  
20 *Immigration*, *supra* note 32, at 41 (recounting how the Sheriff's Department in Alamance  
21 County, North Carolina repeatedly set up "[i]mmigration roadblocks" near a Latino  
22 market, and set up roadblocks at both entrances of a Latino Church three weeks in a row).

23 <sup>43</sup> One of the lawsuits filed against the Maricopa County Sheriff's Office as a result of  
24 its 287(g) enforcement efforts was brought by Manuel Nieto, Jr., a U.S. citizen who was  
25 detained in front of his family's auto repair shop after police heard him listening to music  
26 in Spanish. See Daphne Eviatar, *Feds Fail to Prevent Police Abuse*, *The Washington*  
Independent (Mar. 9, 2009), <http://washingtonindependent.com/32926/scrutiny-of-immigration-policy-finds-wide-spread-abuse>.

27 <sup>44</sup> Michael Sheridan, *Cops: Arizona's Anti-Illegal Immigration Law Mandates 'Racial*  
28 *Profiling'*, *NY Daily News* (May 18, 2010), [http://www.Nydailynews.com/news/national/2010/05/18/2010-05-18\\_police\\_arizonas\\_antiillegal\\_immigration\\_law\\_mandates\\_racial\\_profiling.html#ixzz0oJpFxaXG](http://www.Nydailynews.com/news/national/2010/05/18/2010-05-18_police_arizonas_antiillegal_immigration_law_mandates_racial_profiling.html#ixzz0oJpFxaXG) (noting that Phoenix Police Chief Jack Harris has  
29 stated "[w]hen you get a law that leads a state down this path, where the enforcement is  
30 targeted to a particular segment of the population, it's very difficult not to profile."); *The*  
*Dupnik Rebellion: Pima's Top Cop Says 'No' to SB 1070*, *KGUN-ABC News* (Apr. 27,

1 deeply ingrained in our culture that even federal immigration officers may subconsciously  
2 engage in profiling, despite their extensive training.<sup>45</sup>

3 Arizona's Latino residents will also face a heightened risk of physical violence if S.B.  
4 1070 takes effect. Studies demonstrate that hate crimes against immigrants tend to rise sharply  
5 when anti-immigrant laws like S.B. 1070 are enacted, in part because such statutes sanction  
6 discrimination and hostility toward this group.<sup>46</sup> For example, a dramatic increase in violence  
7 and civil rights violations against Latinos occurred following passage of California's  
8 Proposition 187.<sup>47</sup> Evidence that S.B. 1070 is having similar effects is already beginning to  
9 emerge. Two men wearing camouflage outfits and using high-powered rifles recently shot at  
10 and wounded some undocumented immigrants near Rio Rico,<sup>48</sup> and S.B. 1070 may have  
11 contributed to the murder of a Latino man in Arizona.<sup>49</sup>

12 Equally troubling is that S.B. 1070 will undermine the ability of law enforcement  
13 agencies to protect Arizona's Latino community at the very time this community is facing  
14 these heightened risks. State and local police agencies have stressed that they cannot solve  
15 crimes and maintain public order without the cooperation of immigrants.<sup>50</sup> These agencies  
16 have warned that immigrants will not report critical information about criminal activity

---

17 2010), <http://www.kgun9.com/Global/story.asp?S=12386648> (noting that officers will  
18 inevitably resort to racial profiling).

19 <sup>45</sup> *Gonzalez-Rivera v. INS*, 22 F.3d 1441, 1450 (9th Cir. 1994); *see also United States*  
20 *v. Arvizu*, 534 U.S. 266, 274 (2002); *United States v. Cortez*, 449 U.S. 411, 417 (1981)  
(reasonable suspicion is an "abstract" and "elusive" concept.).

21 <sup>46</sup> Leadership Conference on Civil Rights, *Cause for Concern: Hate Crimes in*  
*America* (1997), [http://www.empowermentzone.com/hate\\_rpt.txt](http://www.empowermentzone.com/hate_rpt.txt).

22 <sup>47</sup> *Id.* California Proposition 187 was a 1994 ballot initiative designed to create a  
23 state-run citizenship screening system in order to prohibit illegal immigrants from using  
24 health care, public education, and other social services in California. The law was struck  
down. *See LULAC v. Wilson*, 997 F. Supp. 1244 (C.D. Cal. 1997).

25 <sup>48</sup> Brian Pryor, *Group of Illegal Immigrants Shot at, 1 Wounded Near Rio Rico*,  
KGUN9 (June 14, 2010), <http://www.kgun9.com/Global/story.asp?S=12648810>.

26 <sup>49</sup> Michael Ferraresi, *Slain Hispanic's Family Wants Case Called Hate Crime*, *The*  
*Arizona Republic*, May 15, 2010, at B3.

<sup>50</sup> *See Ferrell, supra* note 32.

1 without assurance that their immigration status will not be questioned, even when these  
2 immigrants and their families are victims of heinous crimes.<sup>51</sup> This poses a unique risk for the  
3 Latino community because its poorer members are often singled out by criminals.<sup>52</sup> And,  
4 since many Latino families include citizens, non-citizens who are here with the permission  
5 of the federal government and those who are not, S.B. 1070 will drive a wedge between  
6 police and the broader Latino community. This phenomenon has been documented in  
7 connection with other efforts to involve local police departments in immigration  
8 enforcement.<sup>53</sup>

9 S.B. 1070 will jeopardize the physical safety of certain members of Arizona's Latino  
10 community still further by effectively eliminating the only protections offered by federal  
11 immigration law to immigrants, including undocumented immigrants, who are victims of  
12 certain particularly odious crimes. These protections include (1) the U Visa, which is available  
13 to the victims of extortion, felonious assault and other serious offenses; and (2) the T Visa,  
14 which is available to victims of severe forms of human trafficking.<sup>54</sup> When victims apply for  
15 these visas, they immediately receive temporary legal status, as well as eligibility to work in  
16 the United States, for up to four years.<sup>55</sup> These benefits are provided not only to protect the  
17

---

18 <sup>51</sup> *Id.* For example, when three people were killed inside a Houston Vietnamese  
19 restaurant in July 2002, most of the witnesses ran away because many of them were in the  
20 country illegally. Marc M. Harrold, *Community Policing and Enforcement of*  
*Immigration Laws*, Immigr. L. Today, Sept.-Oct. 2005, at 34.

21 <sup>52</sup> Southern Poverty Law Center, *Under Siege: Life for Low-Income Latinos in the*  
*South*, 25, <http://www.splcenter.org/sites/default/files/downloads/UnderSiege.pdf> (noting  
22 that criminals prey upon Latinos because they often lack bank accounts, and thus are  
23 likely to carry large amounts of cash; this crime is so common it is known as "amigo  
shopping," and Latinos are known as "walking ATMs").

24 <sup>53</sup> Ferrell, *supra* note 32; *see also* ACLU, *Local Immigration*, *supra* note 32; Jessica  
25 Saunders, Nelson Lim, Don Prosnitz, Rand Center on Quality Policing, *Enforcing*  
*Immigration Law at the State and Local Levels: A Public Policy Dilemma*, 4,  
26 [http://www.rand.org/pubs/occasional\\_papers/OP273/](http://www.rand.org/pubs/occasional_papers/OP273/).

<sup>54</sup> 8 U.S.C. § 1101(a)(15)(T) and (U).

<sup>55</sup> 8 U.S.C. § 1184(p)(6); 8 C.F.R. § 214.14(g).

1 victims, but also to facilitate the prosecution of these crimes.<sup>56</sup> To ensure the latter goal is  
2 served, victims must obtain a certification attesting that they are assisting law enforcement  
3 agencies' investigations of the crimes committed against them (or are willing to do so), before  
4 they may apply for these visas.<sup>57</sup>

5 This certification requirement presents undocumented immigrants in Arizona with a  
6 dilemma, for when they request a certificate from a local law enforcement agency, they will  
7 reveal their undocumented immigration status. Currently, an undocumented immigrant may  
8 make such a request and, if it is granted, gain temporary legal status with little fear of being  
9 detained. But once S.B. 1070 takes effect, Arizona police may arrest and detain any  
10 undocumented immigrants who come to their attention.<sup>58</sup> A Latino who is the victim of  
11 serious violence or rapacious extortion will then have to decide whether going to the police for  
12 protection is worth the risk of being detained and deported. The possibility of ultimately  
13 obtaining a U Visa would be small comfort to this individual when faced with the prospect of  
14 being jailed, particularly given that incarceration will make it far more difficult to complete the  
15 visa-application process. Moreover, the harsh conditions associated with detention often lead  
16 many immigrants to elect immediate deportation rather than prolong their incarceration to seek  
17 a visa to which they are entitled. In short, S.B. 1070 effectively denies undocumented  
18 immigrants access to the T and U Visas, a critical federal benefit. This, in turn, frustrates  
19 Congress's intent to make prosecution of certain crimes a priority by encouraging even  
20 undocumented immigrants to come forward when they are victimized.

21  
22  
23  
24  
25  

---

<sup>56</sup> 42 U.S.C. § 1513(a)(2)(A).

26 <sup>57</sup> 8 C.F.R. §§ 214.11(a), 214.14(c)(2)(i); 8 U.S.C. § 1101(a)(15)(T).

<sup>58</sup> Ariz. Rev. Stat. § 13-1509.

**CONCLUSION**

1  
 2 If implemented, S.B. 1070 will likely achieve its stated goal: to make life in Arizona so  
 3 burdensome for undocumented immigrants that they will flee the State.<sup>59</sup> Given that the  
 4 statute will impose a number of irreparable harms on Arizona's Latino community, the award  
 5 of a preliminary injunction is clearly warranted. As this brief demonstrates, S.B. 1070 will  
 6 deny immigrants access to essential medical, educational, nutritional, and other benefits critical  
 7 to their well being. The statute will also foster discriminatory animus against and harassment  
 8 of Latinos, compromise the physical well-being of many in the Latino community, and lead to  
 9 an increase in racial profiling and other civil rights violations against Latinos, while at the  
 10 same time diminishing the protections law enforcement agencies may provide Latinos. S.B.  
 11 1070's untested nature and its pernicious effects simply pose too great a risk to Arizona's  
 12 Latino community to allow the statute to take effect without a thorough judicial review. *Amici*  
 13 therefore respectfully request that Plaintiffs' motion be granted.

14  
 15 Respectfully submitted,

16  
 17 s/ STEPHANIE FLEISCHMAN CHERNY  
 18 STEPHANIE FLEISCHMAN CHERNY (SBN 025199)  
 19 RICHARD L. BRUSCA  
 20 CHARLES F. WALKER  
 21 NEIL LOMBARDO  
 22 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
 23 1440 NEW YORK AVE., NW  
 24 WASHINGTON, DC 20005-2111  
 25 (202) 371-7000

26 Attorneys for *Amici Curiae* NCLR, *et al.*

---

24 <sup>59</sup> S.B. 1070 § 1 ("The legislature declares that the intent of this act is to make  
 25 attrition through enforcement the public policy of all state and local government agencies  
 26 in Arizona. The provisions of this act are intended to work together to discourage and  
 deter the unlawful entry and presence of aliens . . .").

**CERTIFICATE OF SERVICE**

I hereby certify that on June 15, 2010, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing, and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Mary R. O'Grady  
Solicitor General  
Christopher A. Munns  
Assistant Attorney General  
Isaiah Fields  
Assistant Attorney General  
Steven A. LaMar  
Assistant Attorney General  
1275 West Washington Street  
Phoenix, Arizona 85007-2997  
Telephone: (602) 542-3333  
Mary.OGrady@azag.gov  
Christopher.Munns@azag.gov  
Isaiah.Fields@azag.gov  
Steven.Lamar@azag.gov

*Attorneys for proposed  
Defendant-Intervenor State of  
Arizona*

John J. Bouma (#001358)  
Robert A. Henry (#015104)  
Joseph G. Adams (#018210)  
SNELL & WILMER L.L.P.  
One Arizona Center  
400 East Van Buren  
Phoenix, AZ 85004-2202  
Phone: (602) 382-6000  
Fax: (602) 382-6070  
jbouma@swlaw.com  
bhenryswlaw.com  
jgadams@swlaw.com

*Attorneys for proposed  
Defendant-Intervenor Janice K.  
Brewer, Governor of The State  
of Arizona*

Joseph A. Kanefield (#015838)  
1700 West Washington, 9th Floor  
Phoenix, AZ 85007  
Telephone: (602) 542-1586  
Fax: (602) 542-7602  
jkanefield@az.gov

*Attorney for proposed  
Defendant-Office Intervenor  
Janice K. Brewer,  
Governor of The State of  
Arizona*

Lance B. Payette  
Deputy County Attorney  
Navajo County Attorney's Office  
P.O. Box 668  
Holbrook, AZ 86025-0668  
Telephone: (928) 524-4002  
Lance.Payette@NavajoCountyAZ.gov

*Attorney for Defendants  
Bradley Carlyon and Kelly  
Clark*

1 Thomas P. Liddy  
2 County Attorney  
3 Maricopa County  
4 234 North Central Ave  
5 Suite 4400  
6 Phoenix, AZ 85004  
7 Telephone: (602) 506-1733  
8 liddyt@mcao.maricopa.gov

*Attorney For Defendant Joseph  
M. Arpaio*

6 Joe A. Albo, Jr.  
7 County Attorney  
8 Pinal County  
9 P.O. Box 887  
10 Florence, AZ 85232  
11 Telephone: (520) 866-6242  
12 joe.albo@co.pinal.az.us

*Attorney for Defendants Paul  
Babeu and James P. Walsh*

10 George Jacob Romero  
11 County Attorney  
12 Yuma County  
13 250 West 2nd Street  
14 Yuma, AZ 85364  
15 Telephone: (928) 817-4300  
16 YCAAttyCivil@yumacountyaz.gov

*Attorney for Defendants Jon R.  
Smith and Ralph Ogden*

14 Daniel S. Jurkowitz  
15 County Attorney  
16 Pima County  
17 32 North Stone Avenue  
18 Suite 2100  
19 Tucson, AZ 85701  
20 Telephone: (520) 740-5750  
21 Fax: (520) 740-5600  
22 Daniel.Jurkowitz@pcao.pima.gov

*Attorney for Defendants  
Barbara LaWall and Clarence  
W. Dupnik*

19 Anne Cecile Longo  
20 County Attorney  
21 Bruce P. White  
22 County Attorney  
23 Maricopa County Attorney's Office  
24 222 North Central Avenue  
25 Suite 1100  
26 Phoenix, AZ 85004  
Telephone: (602) 506-3411  
Fax: 602-506-8567  
longao@mcao.maricopa.gov  
whiteb@mcao.maricopa.gov

*Attorneys for Defendant  
Richard M. Romley*

1 Jack Hamilton Fields  
2 County Attorney  
3 Yavapai County  
4 255 East Gurley Street  
5 3rd Floor  
6 Prescott, AZ 86301  
7 Telephone: (928) 771-3338  
8 Fax: (928) 771-3375  
9 jack.fields@co.yavapai.az.us

*Attorney for Defendant  
Sheila S. Polk*

6 Jean E. Wilcox  
7 County Attorney  
8 Coconino County  
9 110 East Cherry Street  
10 Flagstaff, AZ 86001  
11 Telephone: (928) 779-6518  
12 Fax: (928) 779-5618  
13 jwilcox@coconino.az.gov

*Attorney for Defendants Bill  
Pribil and David W. Rozema*

11 Michael William McCarthy  
12 County Attorney  
13 Greenlee County  
14 P.O. Box 1717  
15 Clifton, AZ 85533  
16 Telephone: (928) 865-4108  
17 Fax: (928) 865-4665  
18 mmccarthy@co.greenlee.az.us

*Attorney for Derek D. Rapiere  
and Steven N. Tucker*

15 Omar C. Jadwat (admitted *pro hac vice*)  
16 Lucas Guttentag (admitted *pro hac vice*)  
17 Tanaz Moghadam (admitted *pro hac vice*)  
18 AMERICAN CIVIL LIBERTIES UNION  
19 FOUNDATION IMMIGRANTS' RIGHTS  
20 PROJECT  
21 125 Broad Street, 18th Floor  
22 New York, New York 10004  
23 Telephone: (212) 549-2660  
24 Fax: (212) 549-2654  
25 ojadwat@aclu.org  
26 Iguttentag@aclu.org  
tmoghadam@aclu.org

*Attorneys for Plaintiffs Friendly  
House, et al.*

23 Linton Joaquin (admitted *pro hac vice*)  
24 Karen C. Tumlin (admitted *pro hac vice*)  
25 Nora A. Preciado (admitted *pro hac vice*)  
26 Melissa S. Keaney (admitted *pro hac vice*)  
Vivek Mittal (admitted *pro hac vice*)  
Ghazal Tajmiri (admitted *pro hac vice*)  
NATIONAL IMMIGRATION LAW CENTER  
3435 Wilshire Boulevard, Suite 2850  
Los Angeles, California 90010

*Attorneys for Plaintiffs Friendly  
House, et al.*



1 Telephone: (213) 639-3900  
2 Fax: (213) 639-3911  
3 joaquin@nilc.org  
4 tumlin@nilc.org  
5 preciado@nilc.org  
6 keaney@nilc.org  
7 mittal@nilc.org  
8 tajmiri@nilc.org

9 Thomas A. Saenz (admitted *pro hac vice*)  
10 Cynthia Valenzuela Dixon (admitted *pro hac vice*)  
11 Victor Viramontes (admitted *pro hac vice*)  
12 Gladys Limon (admitted *pro hac vice*)  
13 Nicholas Espiritu (admitted *pro hac vice*)  
14 MEXICAN AMERICAN LEGAL DEFENSE AND  
15 EDUCATIONAL FUND  
16 634 South Spring Street, 11th Floor  
17 Los Angeles, California 90014  
18 Telephone: (213) 629-2512  
19 Fax: (213) 629-0266  
20 tsaenz@maldef.org  
21 cvalenzuela@maldef.org  
22 vviramontes@maldef.org  
23 glimon@maldef.org  
24 nespirtu@maldef.org

*Attorneys for Plaintiffs Friendly House, et al.*

14 Daniel J. Pochoda (SBA No. 021979)  
15 Anne Lai (SBA No. 172162)  
16 ACLU FOUNDATION OF ARIZONA  
17 77 East Columbus Street, Suite 205  
18 Phoenix, Arizona 85012  
19 Telephone: (602) 650-1854  
20 Fax: (602) 650-1376  
21 dpochoda@acluaz.org  
22 alai@acluaz.org

*Attorneys for Plaintiffs Friendly House, et al.*

19 Nina Perales (admitted *pro hac vice*)  
20 Ivan Espinoza-Madrigal  
21 MEXICAN AMERICAN LEGAL DEFENSE AND  
22 EDUCATIONAL FUND  
23 110 Broadway Street, Suite 300  
24 San Antonio, Texas 78205  
25 Telephone: (210) 224-5476  
26 Fax: (210) 224-5382  
nperales@maldef.org  
iespinoza@maldef.org

*Attorneys for Plaintiffs Friendly House, et al.*

1 Chris Newman  
2 Lisa Kung  
3 NATIONAL DAY LABOR ORGANIZING  
4 NETWORK  
5 675 South Park View Street, Suite B  
6 Los Angeles, California 90057  
7 Telephone: (213) 380-2785  
8 Fax: (213) 380-2787  
9 newman@ndlon.org  
10 kung@ndlon.org

*Attorneys for Plaintiffs Friendly  
House, et al.*

11 Daniel R. Ortega, Jr. (SBA No. 005015)  
12 ROUSH, MCCRACKEN, GUERRERO, MILLER  
13 & ORTEGA  
14 1112 East Washington Street  
15 Phoenix, Arizona 85034  
16 Telephone: (602) 253-3554  
17 Fax: (602) 340-1896  
18 danny@rmgmo.com

*Attorneys for Plaintiffs Friendly  
House, et al.*

19 Cecillia D. Wang (admitted *pro hac vice*)  
20 Harini P. Raghupathi (admitted *pro hac vice*)  
21 AMERICAN CIVIL LIBERTIES UNION  
22 FOUNDATION IMMIGRANTS' RIGHTS  
23 PROJECT  
24 39 Drumm Street  
25 San Francisco, California 94111  
26 Telephone: (415) 343-0775  
Fax: (415) 395-0950  
cwang@aclu.org  
hraghupathi@aclu.org

*Attorneys for Plaintiffs Friendly  
House, et al.*

27 Julie A. Su (admitted *pro hac vice*)  
28 Ronald Lee  
29 Yungsohn Park (admitted *pro hac vice*)  
30 Connie Choi  
31 Carmina Ocampo (admitted *pro hac vice*)  
32 ASIAN PACIFIC AMERICAN LEGAL CENTER,  
33 a member of Asian American Center for Advancing  
34 Justice  
35 1145 Wilshire Blvd., Suite 200  
36 Los Angeles, California 90017  
37 Telephone: (213) 977-7500  
38 Fax: (213) 977-7595  
39 jsu@apalc.org  
40 rlee@advancingequality.org  
41 ypark@apalc.org  
42 cchoi@apalc.org  
43 cocampo@apalc.org

*Attorneys for Plaintiffs Friendly  
House, et al.*

1 Laura D. Blackburne  
2 NATIONAL ASSOCIATION FOR THE  
3 ADVANCEMENT OF COLORED PEOPLE  
4 (NAACP)  
5 4805 Mt. Hope Drive  
6 Baltimore, Maryland 21215  
7 Telephone: (410) 580-5700  
8 lblackburne@naacpnet.org

*Attorneys for Plaintiffs Friendly  
House, et al.*

9 Bradley S. Phillips (admitted *pro hac vice*)  
10 Paul J. Watford (admitted *pro hac vice*)  
11 Joseph J. Ybarra (admitted *pro hac vice*)  
12 Elisabeth J. Neubauer (admitted *pro hac vice*)  
13 MUNGER, TOLLES & OLSON LLP  
14 355 South Grand Avenue  
15 Thirty-Fifth Floor  
16 Los Angeles, CA 90071-1560  
17 Telephone: (213) 683-9100  
18 Fax: (213) 687-3702  
19 Brad.Phillips@mto.com  
20 Paul.Watford@mto.com  
21 Joseph.Ybarra@mto.com  
22 Elisabeth.Neubauer@mto.com

*Attorneys for Plaintiffs Friendly  
House, et al.*

23 Susan Traub Boyd (admitted *pro hac vice*)  
24 Yuval Miller (admitted *pro hac vice*)  
25 MUNGER, TOLLES & OLSON LLP  
26 560 Mission Street  
Twenty-Seventh Floor  
San Francisco, CA 94105-2907  
Telephone: (415) 512-4000  
Fax: (415) 512-4077  
Susan.Boyd@mto.com  
Yuval.Miller@mto.com

*Attorneys for Plaintiffs Friendly  
House, et al.*

1 I hereby certify that on June 16, 2010, I served the attached document by U.S. Mail on  
2 the following, who are not registered participants of the CM/ECF System:

3 Mr. Kenny Angle  
4 Graham County Attorney  
5 800 West Main Street  
6 Safford, AZ 85546

Mr. Preston Allred  
c/o Legal Liaison  
Graham County Sheriff  
523 10th Avenue  
Safford, AZ 85546

6 Mr. John R. Armer  
7 c/o Legal Liaison  
8 Gila County Sheriff  
9 1400 East Ash Street  
10 Globe, AZ 85501

Mr. Larry A. Dever  
c/o Legal Liaison  
Cochise County Sheriff  
205 North Judd Drive  
Bisbee, AZ 85603

9 Mr. Donald Lowery  
10 c/o Legal Liaison  
11 La Paz County Sheriff  
12 1109 Arizona Avenue  
13 Parker, AZ 85344

Mr. Tony Estrada  
c/o Legal Liaison  
Santa Cruz County Sheriff  
1250 N. Hohokam Drive  
Nogales, AZ 85621

12 Mr. Joseph Dedman, Jr.  
13 c/o Legal Liaison  
14 Apache County Sheriff  
15 370 South Washington  
16 St. Johns, AZ 85936

Ms. Daisy Flores  
Gila County Attorney  
1400 East Ash Street  
Globe, AZ 85501

15 Ms. Sheila Polk  
16 Yavapai County Attorney  
17 2830 North Commonwealth Drive  
18 Suite 106  
19 Camp Verde, AZ 86322

Mr. Edward G. Rheinheimer  
Cochise County Attorney  
150 Quality Hill Road, 2nd Floor  
Bisbee, AZ 85603

18 Mr. Michael B. Whiting  
19 Apache County Attorney  
20 245 West 1st South  
21 St. Johns, AZ 85936

Mr. Matthew J. Smith  
Mohave County Attorney  
315 North 4th Street  
Kingman, AZ 86401

21 Mr. George Silva  
22 Santa Cruz County Attorney  
23 2150 North Congress Drive, Suite 201  
24 Nogales, AZ 85621

Mr. Sam Vederman  
La Paz County Attorney  
1320 Kofa Avenue  
Parker, AZ 85344

24  
25  
26

1 Mr. Steve Waugh  
2 c/o Legal Liaison  
3 Yavapai County Sheriff  
4 255 E. Gurley Street  
5 Prescott, AZ 86301

Mr. Tom Sheahan  
c/o Legal Liaison  
Mohave County Sheriff  
600 W. Beale Street  
Kingman, AZ 86402

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  

S/NEIL LOMBARDO  
NEIL LOMBARDO