

1 Omar C. Jadwat*
 2 Lucas Guttentag*
 3 Tanaz Moghadam*
 4 AMERICAN CIVIL LIBERTIES UNION
 5 FOUNDATION IMMIGRANTS'
 6 RIGHTS PROJECT
 7 125 Broad Street, 18th Floor
 8 New York, New York 10004
 9 Telephone: (212) 549-2660
 10 Facsimile: (212) 549-2654
 11 *ojadwat@aclu.org*
 12 *lguttentag@aclu.org*
 13 *tmoghadam@aclu.org*

14 Linton Joaquin*
 15 Karen C. Tumlin*
 16 Nora A. Preciado*
 17 Melissa S. Keaney*
 18 Vivek Mittal*
 19 Ghazal Tajmiri*
 20 NATIONAL IMMIGRATION LAW
 21 CENTER
 22 3435 Wilshire Boulevard, Suite 2850
 23 Los Angeles, California 90010
 24 Telephone: (213) 639-3900
 25 Facsimile: (213) 639-3911
 26 *joaquin@nilc.org*
tumlin@nilc.org
preciado@nilc.org
keaney@nilc.org
mittal@nilc.org
tajmiri@nilc.org

Thomas A. Saenz*
 Cynthia Valenzuela Dixon*
 Victor Viramontes*
 Gladys Limón*
 Nicolás Espíritu*
 MEXICAN AMERICAN LEGAL
 DEFENSE AND EDUCATIONAL FUND
 634 S. Spring Street, 11th Floor
 Los Angeles, California 90014
 Telephone: (213) 629-2512
 Facsimile: (213) 629-0266
tsaenz@maldef.org
cvalenzuela@maldef.org
vviramontes@maldef.org
glimon@maldef.org
nespiritu@maldef.org

Attorneys for Plaintiffs
Additional Co-Counsel on Subsequent Pages

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA

FRIENDLY HOUSE; SERVICE
 EMPLOYEES INTERNATIONAL
 UNION; SERVICE EMPLOYEES
 INTERNATIONAL UNION, LOCAL 5;
 UNITED FOOD AND COMMERCIAL
 WORKERS INTERNATIONAL UNION;
 ARIZONA SOUTH ASIANS FOR SAFE
 FAMILIES; SOUTHSIDE
 PRESBYTERIAN CHURCH; ARIZONA
 HISPANIC CHAMBER OF
 COMMERCE; ASIAN CHAMBER OF
 COMMERCE OF ARIZONA; BORDER

No. CV 10-1061

**COMPLAINT FOR DECLARATORY
 AND INJUNCTIVE RELIEF**

CLASS ACTION

1 ACTION NETWORK; TONATIERRA
2 COMMUNITY DEVELOPMENT
3 INSTITUTE; MUSLIM AMERICAN
4 SOCIETY; JAPANESE AMERICAN
5 CITIZENS LEAGUE; VALLE DEL SOL,
6 INC.; COALICIÓN DE DERECHOS
7 HUMANOS; ANDREW ANDERSON;
8 VICKI GAUBECA; C.M., a minor; LUZ
9 SANTIAGO; JIM SHEE; JOSE ANGEL
10 VARGAS; JESÚS CUAUHTÉMOC
11 VILLA; JOHN DOE #1; JANE DOE #1;
12 and JANE DOE #2,

13 Plaintiffs,

14 v.

15 MICHAEL B. WHITING, Apache County
16 Attorney, in his official capacity;
17 EDWARD G. RHEINHEIMER, Cochise
18 County Attorney, in his official capacity;
19 DAVID W. ROZEMA, Coconino County
20 Attorney, in his official capacity; DAISY
21 FLORES, Gila County Attorney, in her
22 official capacity; KENNY ANGLE,
23 Graham County Attorney, in his official
24 capacity; DEREK D. RAPIER, Greenlee
25 County Attorney, in his official capacity;
26 SAM VEDERMAN, La Paz County
Attorney, in his official capacity;
RICHARD M. ROMLEY, Maricopa
County Attorney, in his official capacity ;
MATTHEW J. SMITH, Mohave County
Attorney, in his official capacity;
BRADLEY CARLYON, Navajo County
Attorney, in his official capacity;
BARBARA LAWALL, Pima County
Attorney, in her official capacity; JAMES
P. WALSH, Pinal County Attorney, in his
official capacity; GEORGE SILVA, Santa
Cruz County Attorney, in his official
capacity; SHEILA S. POLK, Yavapai
County Attorney, in her official capacity;
JON R. SMITH, Yuma County Attorney, in
his official capacity; JOSEPH DEDMAN
JR., Apache County Sheriff, in his official
capacity; LARRY A. DEVER, Cochise
County Sheriff, in his official capacity;
BILL PRIBIL, Coconino County Sheriff, in
his official capacity; JOHN R. ARMER,
Gila County Sheriff, in his official
capacity; PRESTON J. ALLRED, Graham
County Sheriff, in his official capacity;

1 STEVEN N. TUCKER, Greenlee County
Sheriff, in his official capacity; DONALD
2 LOWERY, La Paz County Sheriff, in his
official capacity; JOSEPH ARPAIO,
3 Maricopa County Sheriff, in his official
capacity; TOM SHEAHAN, Mohave
4 County Sheriff, in his official capacity;
KELLY CLARK, Navajo County Sheriff,
5 in his official capacity; CLARENCE W.
DUPNIK, Pima County Sheriff, in his
6 official capacity; PAUL BABEU, Pinal
County Sheriff, in his official capacity;
7 TONY ESTRADA, Santa Cruz County
Sheriff, in his official capacity; STEVE
8 WAUGH, Yavapai County Sheriff, in his
official capacity; and RALPH OGDEN,
9 Yuma County Sheriff, in his official
capacity,

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11 Defendants.
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1 Daniel J. Pochoda (SBA No. 021979)
Anne Lai** (SBA No. 172162)
2 ACLU FOUNDATION OF ARIZONA
77 E. Columbus Street, Suite 205
3 Phoenix, Arizona 85012
Telephone: (602) 650-1854
4 Facsimile: (602) 650-1376
dpochoda@acluaz.org
5 *alai@acluaz.org*

Cecillia D. Wang*
Harini P. Raghupathi*
AMERICAN CIVIL LIBERTIES
UNION FOUNDATION
IMMIGRANTS' RIGHTS
PROJECT
39 Drumm Street
San Francisco, California 94111
Telephone: (415) 343-0775
Facsimile: (415) 395-0950
cwang@aclu.org
hraghupathi@aclu.org

8 Nina Perales*
Ivan Espinoza-Madrigal*
9 MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL
10 FUND
110 Broadway Street, Suite 300
11 San Antonio, Texas 78205
Telephone: (210) 224-5476
12 Facsimile: (210) 224-5382
nperales@maldef.org
13 *iespinoza@maldef.org*

Julie A. Su*
Ronald Lee*
Yungsohn Park*
Connie Choi*
Carmina Ocampo*
ASIAN PACIFIC AMERICAN
LEGAL CENTER, a member
of Asian American Center for
Advancing Justice
1145 Wilshire Blvd., Suite 200
Los Angeles, California 90017
Telephone: (213) 977-7500
Facsimile: (213) 977-7595
jsu@apalc.org
rlee@advancingequality.org
ypark@apalc.org
cchoi@apalc.org
cocampo@apalc.org

15 Chris Newman*
Lisa Kung*
16 NATIONAL DAY LABOR ORGANIZING
NETWORK
17 675 S. Park View Street, Suite B
Los Angeles, California 90057
18 Telephone: (213) 380-2785
Facsimile: (213) 380-2787
19 *newman@ndlon.org*
kung@ndlon.org

20 Daniel R. Ortega, Jr. (SBA No. 005015)
21 ROUSH, MCCracken, GUERRERO,
MILLER & ORTEGA
22 1112 E. Washington Street
Phoenix, Arizona 85034
23 Telephone: (602) 253-3554
Facsimile: (602) 340-1896
24 *danny@rmgmo.com*

Laura D. Blackburne*
NATIONAL ASSOCIATION
FOR THE ADVANCEMENT
OF COLORED PEOPLE (NAACP)
4805 Mt. Hope Drive
Baltimore, Maryland 21215
Telephone: (410) 580-5700
lblackburne@naacpnet.org

25 *Attorneys for Plaintiffs*

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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

Bradley S. Phillips*[†]
Paul J. Watford*[†]
Joseph J. Ybarra*[†]
Elisabeth J. Neubauer*[†]
MUNGER, TOLLES & OLSON LLP[†]
355 South Grand Avenue, 35th Floor
San Francisco, California 94105-2907
Telephone: (213) 683-9100
Facsimile: (213) 687-3702
Brad.Phillips@mto.com
Paul.Watford@mto.com
Joseph.Ybarra@mto.com
Elisabeth.Neubauer@mto.com

Susan T. Boyd*[†]
Yuval Miller*[†]
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
Los Angeles, California 90071-1560[†]
Telephone: (415) 512-4000
Facsimile: (415) 512-4077
Susan.Boyd@mto.com
Yuval.Miller@mto.com

[†]*Attorneys for all plaintiffs except Service Employees International Union, Service Employees International Union, Local 5, United Food and Commercial Workers International Union, and Japanese American Citizens League*

*Application for admission *pro hac vice* forthcoming

**Admitted pursuant to Ariz. Sup. Ct. R. 38(f)

1 **PRELIMINARY STATEMENT**

2 1. This action challenges Arizona Senate Bill 1070, as amended (“SB 1070”), a
3 comprehensive set of state immigration laws expressly intended to “discourage and deter
4 the unlawful entry and presence of aliens and economic activity by persons unlawfully
5 present in the United States.” SB 1070 proclaims and implements an immigration policy
6 of “attrition through enforcement” for the State of Arizona. The legislation creates an
7 array of new state-law criminal offenses relating to immigration and imposes sweeping
8 requirements on state and local law enforcement officers to investigate alleged
9 immigration violations and to arrest and detain persons suspected of immigration
10 violations. The law was signed by Governor Janice Brewer on April 23, 2010, and is
11 scheduled to go into effect on July 28, 2010.

12 2. SB 1070 attempts to create a legal regime regulating and restricting
13 immigration and punishing those whom Arizona deems to be in violation of immigration
14 laws. It is an impermissible encroachment into an area of exclusive federal authority and
15 will interfere and conflict with the comprehensive federal immigration system enacted by
16 Congress and implemented through a complex web of federal regulations and policies.
17 According to law enforcement officials in Arizona and elsewhere, SB 1070 will cause
18 widespread racial profiling and will subject many persons of color—including countless
19 U.S. citizens, and non-citizens who have federal permission to remain in the United
20 States—to unlawful interrogations, searches, seizures and arrests.

21 3. SB 1070 is unconstitutional. It violates the Supremacy Clause and core civil
22 rights and civil liberties secured by the United States Constitution, including the First
23 Amendment right to freedom of speech and expressive activity, the Fourth Amendment
24 right to freedom from unreasonable searches and seizures, and the Equal Protection
25 Clause guarantee of equal protection under the law.

26

1 1070. Friendly House's mission and organizational goals will also be negatively impacted
2 by SB 1070 because its staff will have a harder time encouraging clients to seek services
3 in its various program areas to the extent that they involve interacting with government
4 agencies and police. Friendly House also fears that its current and prospective clients will
5 be deterred from seeking immigration relief because local law enforcement will continue
6 to stop and detain them, notwithstanding their application for relief, on the basis that they
7 do not have any registration documents that are acceptable under SB 1070.

8 8. Plaintiff Service Employees International Union ("SEIU") is one of the largest
9 labor organizations in the world, representing 2.2 million working men and women who
10 work primarily in the public sector and in the janitorial, health services, long-term care,
11 and security industries. Many of SEIU's members are recent immigrants to the United
12 States and many of its members come from racial minority groups. SEIU has long called
13 for and worked toward comprehensive reform of U.S. immigration laws. Another priority
14 for SEIU is fighting discrimination against minorities, women and other groups in the
15 workplace and in society in general. In Arizona, SEIU has three affiliates: SEIU/Workers
16 United Western Regional Joint Board; National Association of Government Employees;
17 and Plaintiff Service Employees International Union, Local 5 ("SEIU Arizona").
18 Together, these three affiliates have approximately 2,300 members spanning every county
19 in the state, about 40 percent of whom are Latino and some of whom are other racial
20 minorities. SEIU works in partnership with SEIU Arizona and other groups to combat
21 discrimination and mobilize for immigration reform at the national level. SB 1070's
22 impact on already distressed county and municipal budgets will harm SEIU's members to
23 the extent that it will result in further pay cuts, furloughs, and layoffs. Furthermore, some
24 of SEIU's Latino members or their families have already been subjected to stops by local
25 law enforcement where they have been asked to produce proof of immigration status.
26 SEIU is concerned that its minority members will be even more likely to be stopped,

1 detained, arrested, and questioned by state and local police after SB 1070 goes into effect.
2 This will cause hardship for members of SEIU. In addition, SEIU is concerned that
3 members and potential members will be fearful to attend rallies, demonstrations, and
4 union meetings or to engage in leafleting or other traditional labor activities because of the
5 possibility of being stopped by the police under SB 1070. This will significantly impact
6 the ability of SEIU to protect its existing members and to organize new members. SEIU
7 joins this lawsuit to preserve its ability to organize new members and to protect the rights
8 and interests of its members and prospective members.

9 9. Plaintiff Service Employees International Union, Local 5 (“SEIU Arizona”), is
10 a labor union and an affiliate of Plaintiff SEIU. SEIU Arizona represents state, county,
11 and municipal public service employees and has 1,800 members in Arizona, including
12 members in every county throughout the state. Approximately one-quarter of SEIU
13 Arizona’s membership is Latino, and its membership also includes other racial minorities.
14 The primary mission of SEIU Arizona is to organize, represent, and empower employees
15 in Arizona. In addition, SEIU Arizona works in partnership with SEIU and other groups
16 to combat discrimination and mobilize for immigration reform at the national level. SB
17 1070’s impact on already distressed county and municipal budgets will harm SEIU
18 Arizona’s members to the extent that it will result in further pay cuts, furloughs, and
19 layoffs. Furthermore, some of SEIU Arizona’s Latino members or their families have
20 already been subjected to stops by local law enforcement where they have been asked to
21 produce proof of immigration status. SEIU Arizona is concerned that its minority
22 members will be even more likely to be stopped, detained, arrested, and questioned by
23 state and local police after SB 1070 goes into effect. This will cause hardship for
24 members of SEIU Arizona. In addition, SEIU Arizona is concerned that members and
25 potential members will be fearful to attend rallies, demonstrations, and union meetings or
26 to engage in leafleting or other traditional labor activities because of the possibility of

1 being stopped by the police under SB 1070. This will significantly impact the ability of
2 SEIU Arizona to protect its existing members and to organize new members. SEIU
3 Arizona joins this lawsuit to preserve its ability to organize new members and to protect
4 the rights and interests of its members and prospective members.

5 10. Plaintiff United Food and Commercial Workers International Union
6 (“UFCW”) represents more than 1.3 million workers, primarily in the retail, meatpacking,
7 food processing, and poultry industries. Within the State of Arizona there are more than
8 21,000 UFCW-represented workers, whose employers include retail food and non-food
9 retail, hospital services, meat packing and food processing, parking services, and legal aid
10 services. The UFCW represents workers who comprise a range of races and ethnicities,
11 with varying degrees of English proficiency, including substantial numbers of Latinos.
12 The UFCW’s mission is to better the terms and conditions of employment for all workers
13 it represents and thereby better the lives of their families and communities. The UFCW
14 accomplishes its mission through organizing, collective bargaining, and representation of
15 employees. These core activities require freedom of association and communication
16 between the union and the employees and among the employees at the worksite and in the
17 community, activities protected by the United States Constitution and federal labor law.
18 If SB 1070 is allowed to go into effect it will impose direct harm to UFCW’s core mission
19 and representational obligations by subjecting UFCW members to unlawful questioning,
20 arrest and detention by state and local law enforcement officers; deterring UFCW-
21 represented workers from attending and participating in UFCW activities; and reducing
22 UFCW’s ability to effectively advocate on behalf of the employees it represents.

23 11. Plaintiff Arizona South Asians For Safe Families (“ASAFSF”) is an
24 organization based in Scottsdale, Arizona whose mission is to increase awareness of
25 domestic violence and provide support services to victims of domestic violence in the
26 South Asian community in Arizona. Established in 2004, ASAFSF’s services include

1 providing family advocacy and safety-planning support to domestic violence victims
2 through a toll-free helpline as well as direct services to victims in the form of financial
3 assistance for child care, rent, lawyers' fees, transportation, and emergent personal needs.
4 ASAFSF's family advocates often transport victims to court and to medical and legal
5 appointments. ASAFSF also engages in community education, which includes hosting
6 small group meetings with community members. The majority of ASAFSF's clients are
7 immigrant women, many of whom are eligible for federal immigration relief through the
8 Violence Against Women Act ("VAWA"), the Trafficking and Violence Protection Act
9 ("TVPA"), or asylum procedures. SB 1070 will interfere with the organization's essential
10 mission of providing support services to victims of domestic violence. First, ASAFSF
11 staff and volunteers will be at imminent risk of prosecution under SB 1070's transporting
12 provisions. Second, ASAFSF will have to re-allocate its very limited resources to ensure
13 that its clients feel safe reporting their experiences to law enforcement or while being
14 transported by ASAFSF advocates. Third, people will not come to its community
15 meetings for fear of being stopped, interrogated, and arrested under SB 1070. ASAFSF
16 believes its clients will be afraid of approaching law enforcement to report crimes or
17 interact with government officials because their appearance, limited English ability, and
18 accents could be used by the police to question their authorization to be in the United
19 States. Plaintiff ASAFSF also fears that local law enforcement will stop and detain clients
20 who have applied for immigration relief under the VAWA, the TVPA, or through the
21 asylum procedures, because they do not have any registration documents that are
22 acceptable under SB 1070, and that potential clients will be discouraged from seeking
23 these services. ASAFSF's clients and potential clients will be placed at greater risk of
24 physical and mental injury due to SB 1070.

25 12. Plaintiff Southside Presbyterian Church ("Southside") is a religious institution
26 based in Tucson, Arizona, whose mission is to serve God through worship and sacrament,

1 and by following the Bible's admonition to “do justice, love mercy, and walk humbly with
2 . . . God.” Southside’s members and leaders believe that the church has been called—in
3 fact, commanded—by God to welcome and serve all people. Southside follows the
4 admonition in Hebrews 13:2: “Be not forgetful to entertain strangers, for by this some
5 have entertained angels unawares.” Southside serves the homeless, the day laborers, its
6 low income neighbors, its own parishioners, and others without regard to race, gender,
7 national origin, religion, or immigration status. Southside’s community is largely
8 comprised of low-income Latino and Native Americans families, although it also includes
9 Caucasians and African Americans. Southside operates a homeless program, a Samaritan
10 program through which parishioners provide assistance for individuals who are in distress
11 in the desert, and an on-premises day laborer center. The day laborers who participate in
12 Southside’s program help run the center and solicit temporary employment by visibly
13 gathering at a public sidewalk outside the church and signaling their availability for work
14 to potential employers. In addition, some of Southside’s religious leaders, staff, and
15 volunteers frequently—and without knowledge of, or regard to, immigration status—
16 transport parishioners and others to religious activities and to medical facilities; they
17 would thus be at risk of being prosecuted pursuant to SB 1070’s transporting and
18 harboring provisions. SB 1070’s criminal prohibitions infringe on Southside’s ability to
19 carry out its religious mission to serve all God's people. Furthermore, Southside depends
20 on its good relationships with police, social workers, and other city and state employees to
21 safeguard church premises and its parishioners, but Southside staff and volunteers fear
22 that these relationships will change after SB 1070 goes into effect. Southside staff and
23 volunteers will be hesitant to approach law enforcement and other authorities to report
24 crimes or speak out as witnesses to crimes because the appearance, native language, and
25 limited English ability of the community members served by Southside can be used by the
26 police to question their authorization to be in the United States and to investigate

1 Southside staff and volunteers for potential violations of SB 1070. SB 1070 will frustrate
2 the mission of Southside and divert limited resources to educating and assisting
3 community members who will be affected by SB 1070.

4 13. Plaintiff Arizona Hispanic Chamber of Commerce (“AZHCC”) is an
5 association of Latino-owned businesses located throughout the state of Arizona that seek
6 to support, promote, and foster business, cultural, and educational relationships between
7 chamber members and the general public. In addition to serving as a public advocate for
8 its members, AZHCC offers seminars, workshops, marketing, and promotions, as well as
9 networking and sponsorship opportunities for its corporate and community partners.
10 AZHCC has more than 350 business members with employees, many of whom are
11 Latinos, including U.S. citizens, non-citizens, monolingual Spanish speakers, limited
12 English-proficient speakers and individuals who speak English with Mexican and other
13 Spanish-language accents. Because of their appearance, traditional cultural practices, and
14 limited English proficiency, some members of AZHCC and/or their employees fear they
15 will be subject to investigation or unwarranted arrest under Arizona SB 1070. AZHCC
16 members, like all small business owners in Arizona and nationwide, rely on local and state
17 law enforcement to keep their companies safe and some AZHCC members would be
18 deterred from approaching law enforcement to report criminal activity committed against
19 them or others out of fear that the provisions of SB 1070 would subject AZHCC members
20 to unwarranted questioning, detention or arrest. AZHCC members also include non-profit
21 organizations who serve immigrant populations, including noncitizens that do not have
22 federal authorization to be in the United States. The provisions of SB 1070 create new
23 criminal penalties for certain immigrants and non-immigrants associating with immigrants
24 and will cause considerable confusion for AZHCC’s members and other members of the
25 general business community about their potential criminal liability under SB 1070.
26 AZHCC will suffer financial hardship because it will have to divert already limited

1 resources from the association's normal activities to educate and inform these groups
2 resulting from the confusion surrounding SB 1070. Finally, since many of AZHCC's
3 members heavily rely on a U.S.-born minority consumer base that will be reluctant to
4 patronize businesses for fear that they could be harassed by local law enforcement,
5 AZHCC will have to divert resources from other activities to inform and educate this
6 group as well to counter the economic harm caused by SB 1070.

7 14. Plaintiff Asian Chamber of Commerce of Arizona ("ACC") is an Arizona
8 organization that brings together a network of Asian-owned businesses throughout the
9 state that seek to support, promote and foster business, cultural and educational
10 relationships between chamber members and the general public. ACC has over 90
11 organizational members. ACC members and their employees, many of whom are also of
12 Asian descent, include U.S. citizens and non-citizens, individuals born in the U.S. and
13 recent immigrants, monolingual non-English speakers, limited English-proficient
14 speakers, and individuals that speak English with an accent. ACC members also include
15 non-profit organizations who serve immigrant populations, including non-citizens who do
16 not have federal authorization to remain in the United States. ACC members often rely on
17 law enforcement to keep their businesses safe and would be deterred from approaching
18 law enforcement to report criminal activity committed against them or others out of fear
19 that SB 1070 would subject ACC members to detention, questioning, or arrest. The
20 provisions of SB 1070 that create new criminal penalties for certain immigrants and
21 persons associating with immigrants will cause considerable confusion for ACC's
22 members and other members of the general business community about their potential
23 criminal liability under SB 1070. ACC will have to divert its limited resources to
24 addressing this confusion and fear. Finally, since many of its member organizations rely
25 heavily on a minority consumer base that will become reluctant to patronize businesses
26 for fear that they could be harassed by local law enforcement, ACC will have to divert

1 resources from other activities to address the considerable confusion and complaints
2 surrounding SB 1070.

3 15. Plaintiff Border Action Network (“BAN”) is a statewide membership
4 organization devoted to protecting the human rights and dignity of immigrant and border
5 communities. BAN builds the political and social capacity of its constituency through
6 grassroots organizing, leadership development, policy advocacy, and educational
7 activities. BAN has over 1,000 members distributed across 6 Arizona counties. The great
8 majority of BAN’s membership is Latino. In addition, BAN has some members who are
9 day laborers who solicit work on public sidewalks and corners. Some of BAN’s
10 members, including its day laborer members, do not have permission to work or remain in
11 the United States. Other BAN members are legal residents or U.S. citizens, and some live
12 in families of mixed immigration status and nationality. BAN is concerned that its
13 members will be stopped, detained, or arrested under SB 1070 due to their appearance or
14 lack of acceptable documents. BAN’s own mission will be frustrated by SB 1070. Its
15 staff frequently buses members to events and organizational functions without regard to
16 their passengers’ immigration status, and they are concerned that this could subject them
17 to prosecution under SB 1070. In addition, BAN will have to divert significant resources
18 to a public education campaign to inform its members about their rights and
19 responsibilities under the new law and address their fears and concerns. Finally, some of
20 BAN’s members have already expressed a desire to leave the state; SB 1070 will make it
21 harder for its staff to maintain its membership base and to recruit new members.

22 16. Plaintiff Tonatierra Community Development Institute (“Tonatierra”) is a
23 nonprofit community-based organization in Phoenix, Arizona that advocates for the
24 cultural, educational, and economic development needs of the indigenous community in
25 Arizona. Some of the families it works with are members of indigenous American Indian
26 tribes who fear that they will be stopped and questioned under SB 1070 if they are not

1 carrying tribal identification cards. In addition, Tonatierra operates a day laborer center
2 called Centro Macehualli. The mission of Centro Macehualli is to empower workers and
3 protect them from exploitation. Day laborers who gather at Centro Macehualli are hired
4 by homeowners, small businesses, and construction contractors as independent contractors
5 or employees for temporary work such as gardening, cleaning, child care, moving, and
6 construction. Centro Macehualli does not condition membership and access to its services
7 on immigration status. As such, the Center is open to both citizen and non-citizen day
8 laborers. SB 1070 would frustrate Centro Macehualli's mission by criminalizing the
9 expressive activity of members who are not authorized by the federal government to work
10 in the United States and chilling the expressive activity of members who are authorized to
11 work. Due to SB 1070, members of Centro Macehualli are refraining, out of fear of
12 prosecution, from indicating their need and availability for work in public areas.

13 17. Plaintiff Muslim American Society ("MAS") is a charitable, religious, social,
14 cultural, and educational organization with an advocacy arm called the MAS Freedom
15 Foundation ("MASF"). Part of MAS's mission is to protect the civil rights and liberties of
16 American Muslims. The mission of MASF is to integrate and empower the American
17 Muslim community through civic education, participation, community outreach, and
18 coalition building. MAS and MASF have an office and chapter in Phoenix, Arizona, with
19 over 30 members ("MAS-AZ"), who are also members of MAS. Some of MAS-AZ's
20 members are immigrants who will be subjected to profiling based on their foreign
21 appearance and clothing, such as headscarves. SB 1070 will thwart the organizational
22 mission of MAS, as MAS-AZ members have already indicated that they will be afraid to
23 attend town hall meetings and its immigration clinic after SB 1070. MAS's mission to
24 provide community education to the Muslim American community in Arizona will also be
25 thwarted because its target audience will be too afraid to attend meetings and organized
26 activities and events. In addition, MAS-AZ will have to shift scarce organizational

1 resources to create new educational materials to protect its members from SB 1070, rather
2 than spend these resources on other areas.

3 18. Plaintiff Japanese American Citizens League (“JACL”) is a membership
4 organization founded in 1929 that works to advance the civil rights of Japanese
5 Americans and others who are victimized by injustice and bigotry. JACL's Arizona
6 chapter (“JACL AZ”) has over 300 members, including non-citizen immigrants as well as
7 U.S. citizens and racial minorities. To advance its mission, JACL AZ sponsors public
8 education events, holds membership meetings, conducts outreach to teachers and schools,
9 and works to preserve the history of the Gila and Poston WWII Japanese American
10 concentration camps. JACL AZ collaborates with local city and community agencies to
11 host a monthly senior center. Some JACL AZ members who seek assistance through or
12 participate in its programs lack authorization to remain in the United States; others have
13 only an H1-B visa. JACL believes that even its U.S. citizen members will be profiled
14 under SB 1070. JACL fears that SB 1070 will create fear and confusion, especially for its
15 elderly who were imprisoned in Japanese internment camps. In addition, JACL AZ will
16 need to spend its scarce organizational resources and employ its mostly volunteer staff to
17 create new educational materials to respond to SB 1070.

18 19. Plaintiff Valle del Sol, Inc. is a non-profit organization that has served the
19 Maricopa County community since 1970. Valle del Sol helps thousands of individuals
20 each year by providing extensive behavioral health and social services. The agency
21 provides counseling, substance abuse treatment, prevention services, case management,
22 adult education, advocacy, leadership development, and services for seniors. Valle del
23 Sol’s programs address the increasing social and community needs related to family,
24 substance abuse, civic engagement, cultural diversity, and behavioral health problems. As
25 one of the largest Latino behavioral health and social service organizations in Maricopa
26 County, Valle del Sol’s culturally diverse, bilingual staff provides a wide array of

1 programs and services for the entire family. Its mission and the people it serves will be
2 directly affected by SB 1070. Valle del Sol serves a diverse mixture of populations a
3 majority of whom are Latinos. SB 1070 will force Valle del Sol to divert scarce resources
4 from critical programs in order to educate and assist individuals affected by SB 1070.
5 Furthermore, SB 1070 will thwart the mission and organizational goals of Valle del Sol by
6 deterring its clients from seeking the organization's services because the clients fear
7 interrogation, detention, and arrest under the provisions of SB 1070. Because the
8 agency's name is in Spanish, there exists a fear by staff that on that basis alone, Valle del
9 Sol may be a target under the provisions of SB 1070.

10 20. Coalición de Derechos Humanos ("Derechos Humanos") is a grassroots
11 community-service organization based in Tucson, Arizona, whose mission is to promote
12 human rights in the U.S.-Mexico border region. Since 1992, Derechos Humanos has
13 furthered its mission by organizing public education campaigns on issues related to
14 immigration, conducting citizenship workshops for lawful permanent residents and
15 immigrant refugees, and hosting intake clinics through which the organization assists
16 community members—including racial minorities and non-citizen immigrants—who
17 experience law enforcement, workplace, landlord/tenant, and housing discrimination
18 problems. Derechos Humanos offers its services without regard to whether the person is
19 authorized by the federal government to be present in the United States. Derechos
20 Humanos has already been forced to suspend most of its work relating to community
21 education on border deaths and leadership development to respond to inquiries from the
22 community about SB 1070. The fear and confusion created by SB 1070 has also resulted
23 in a dramatic drop in attendance at workshops and events. Community members served
24 by Derechos Humanos are afraid to take steps to protect their rights when it means any
25 interaction with government officials, including trying to protect their rights through the
26 state courts. SB 1070 will frustrate the mission of Derechos Humanos and divert limited

1 resources to educating and assisting community members who will be affected by SB
2 1070.

3
4 **Individual Plaintiffs**

5 21. Plaintiff Andrew Anderson is a citizen of Jamaica currently residing in
6 Phoenix, Arizona. In March 2010, after being placed in deportation proceedings, a federal
7 immigration judge granted Mr. Anderson withholding of removal, a form of relief under
8 federal immigration law that would allow Mr. Anderson to stay in the United States
9 because his life or freedom would be in danger if he returned to Jamaica. Currently, the
10 only form of identification that Mr. Anderson carries is a Jamaican driver's license. The
11 only documentation of his permission to be in the United States is a single piece of paper
12 reflecting the order of the U.S. Immigration Court. Mr. Anderson fears that he will be
13 stopped by state or local law enforcement officers pursuant to SB 1070 because he looks
14 or sounds foreign, and that he will be detained under SB 1070 for failure to carry
15 registration documents.

16 22. Plaintiff Vicki Gaubeca is a resident of Las Cruces, New Mexico. She is
17 Latina, born in Mexico, and is a U.S. citizen. Ms. Gaubeca frequently drives from her
18 home to Tucson, Arizona to visit family members. Ms. Gaubeca also visits Arizona for
19 work. When she travels in Arizona, Ms. Gaubeca passes through Cochise, Maricopa,
20 Pima, Santa Cruz, and Yavapai counties. Ms. Gaubeca is a licensed New Mexico driver.
21 The State of New Mexico does not require "proof of legal presence," as that term is used
22 by SB 1070, when issuing driver's licenses. Thus, Ms. Gaubeca fears that if SB 1070
23 goes into effect, she could be pulled over by a police officer in Arizona and detained
24 because her New Mexico driver's license will not be accepted to dispel suspicion that she
25 is "unlawfully present" in the United States. Ms. Gaubeca is also wary of speaking
26

1 Spanish in the presence of Arizona law enforcement officers because it may give rise to
2 suspicion that she is unlawfully present as that term is used in SB 1070.

3 23. Plaintiff C.M., a minor,¹ is a resident of Gilbert, Arizona and a freshman in
4 high school. She is originally from Haiti and, due to the recent earthquake there, has been
5 granted Temporary Protected Status in the United States. C.M. is 15 years old but is often
6 told that she looks 18. C.M. does not carry any documents proving that she has
7 permission to be in the United States. However, she recently asked her mother to obtain
8 an Arizona non-driver's identification for her after she learned about SB 1070. She was
9 afraid that she would be stopped and questioned about her immigration status due to her
10 dark skin and the fact that she speaks a foreign language. She is nervous about speaking
11 Haitian Creole with her friends and believes that it could get her in trouble with the police
12 under SB 1070.

13 24. Plaintiff Luz Santiago is a pastor for a church in Mesa, Arizona. She is a U.S.
14 citizen, Latina, and fluent in Spanish. Approximately 80 percent of her congregation
15 lacks authorization by the federal government to remain in the United States. In her role
16 as a pastor, Ms. Santiago provides transportation and shelter to members of her
17 congregation on a daily basis, including those members who are not authorized by the
18 federal government to remain in the United States. Ms. Santiago assists members of her
19 congregation by driving them to court, doctor's appointments, urgent care, the grocery
20 store, and school. Once a month, she also transports the youth in her congregation to
21 spiritual outings. Ms. Santiago also provides shelter to persons who seek sanctuary in her
22 church and runs a food bank that does not screen for authorization by the federal
23 government to remain in the United States. Ms. Santiago fears for the well-being of
24 vulnerable congregation members who could be stopped, detained, arrested, and

25
26 ¹ C.M. is a minor and does not waive the protection of Rule 5.2(a) of the Federal
Rules of Civil Procedure. Therefore, only her initials shall be listed in any filing made in
connection with this case. *See* Fed. R. Civ. P. 5.2(a)(3).

1 questioned under SB 1070. In addition, she believes that people will stop seeking help
2 from the food bank because of SB 1070. Ms. Santiago is concerned that she could be
3 subject to prosecution under the transporting and harboring provisions of SB 1070 for
4 performing work that is central to her role as a religious leader.

5 25. Plaintiff Jim Shee is an elderly resident of Litchfield Park, Arizona. He is a
6 U.S. citizen of Spanish and Chinese descent, is fluent in Spanish, and has lived in Arizona
7 his entire life. Over the past month, Mr. Shee has been stopped twice by local police in
8 Arizona and asked to produce identification documents. On or about April 6, 2010, Mr.
9 Shee was stopped and questioned on the way to his birthday party by a City of Phoenix
10 police officer who demanded to see his "papers." He was not given a citation. On or
11 about April 16, 2010, Mr. Shee was stopped by a highway patrol officer with the Arizona
12 Department of Public Safety in Yuma, Arizona. The officer made a U-turn, activated his
13 emergency lights, stopped Mr. Shee and asked to see his "papers." If SB 1070 goes into
14 effect, Mr. Shee fears that he will be at even greater risk of being stopped and questioned
15 by Arizona law enforcement officials based on his appearance. He fears that he will be
16 detained because he will be unable to prove to an officer that he is a U.S. citizen. Mr.
17 Shee does not wish to carry his passport with him at all times because he is afraid of
18 losing it.

19 26. Plaintiff Jose Angel Vargas is a resident of Phoenix, Arizona and is a lawful
20 permanent resident of the United States. He speaks Spanish fluently but not English. Mr.
21 Vargas is a member of Tonatierra's Centro Macehualli. He has lawfully and peacefully
22 solicited work at Centro Macehualli and on public street corners. Mr. Vargas would like
23 to continue soliciting work in public places; however, he is very worried that he will be
24 detained by the police under SB 1070 due to his Latino appearance, the fact that he cannot
25 communicate with a police officer in English, and because he solicits work alongside
26 others who do not have authorization to work in the United States. He was already

1 arrested for trespassing once before in Arizona, in March 2009, while soliciting work on a
2 corner near 25th Street and Bell Road in North Phoenix. While the charges were dropped
3 shortly thereafter, Mr. Vargas continues to be fearful of encounters with the police.

4 27. Plaintiff Jesús Cuauhtémoc Villa is currently an anthropology student at
5 Arizona State University in Tempe, Arizona. He is a U.S. citizen and Latino. Because
6 Mr. Villa is a resident of New Mexico and because his parents and extended family still
7 live in that State, he travels back and forth between Arizona and New Mexico about twice
8 a year. When driving between states and while traveling in Arizona, he visits Gila,
9 Yavapai, Coconino, Maricopa and Navajo Counties. As a full-time student, Mr. Villa is
10 not required to possess an Arizona driver's license; he only possesses a New Mexico
11 driver's license. New Mexico does not require "proof of legal presence," as that term is
12 used in SB 1070, when issuing driver's licenses. Because Mr. Villa does not regularly
13 carry his passport, social security card, or birth certificate with him out of fear that he
14 could lose these documents, he believes that under SB 1070, state and local law
15 enforcement will stop him based on his ethnicity and detain him because his driver's
16 license is not adequate to prove his citizenship.

17 28. Plaintiff John Doe #1 is a resident of Phoenix, Arizona. He is Chinese and a
18 lawful permanent resident of the United States. He received his permanent resident status
19 in 2008 after being granted asylum on the basis of political persecution by the government
20 of the People's Republic of China. John Doe #1 has spent the last three years building a
21 new life here and currently works as a waiter in a Chinese restaurant. John Doe #1 speaks
22 Chinese and his English is very limited. If SB 1070 goes into effect, he fears that he will
23 be stopped by state or local law enforcement officers and questioned about his
24 immigration status on the basis of his Asian appearance and accent. John Doe #1 is afraid
25 of interacting with government officials in his native language because it could prompt
26 them to question him about his authorization to be in the United States. John Doe #1 also

1 understands that he will be detained if he is stopped without his green card. Due to his
2 experience as a victim of official persecution, this possibility is extremely distressing to
3 John Doe #1.

4 29. Plaintiff Jane Doe #1 is a resident of Phoenix, Arizona. She is of South Asian
5 descent and speaks Urdu and very limited English. Several years ago, in her home
6 country, Jane Doe #1 was kidnapped, sexually abused, and physically assaulted. When
7 she sought medical and legal assistance, the hospital and police refused to investigate the
8 case. Jane Doe #1 and her family were forced to leave her village out of fear for their
9 safety and because they were blacklisted from employment opportunities. She believes all
10 of this occurred because she is Roman Catholic. Although Jane Doe #1 is preparing an
11 application for asylum based on the religious persecution she experienced as a Christian in
12 a predominantly Muslim country, she does not currently have a registration document.
13 She is afraid that she will be stopped and detained by a state or local law enforcement
14 officer pursuant to SB 1070 due to her Asian appearance and the fact that she speaks a
15 foreign language and has an accent. Because of her negative experience with law
16 enforcement in the past, this causes Jane Doe #1 a great deal of stress.

17 30. Plaintiff Jane Doe #2 is a resident in a transitional housing program in
18 Phoenix, Arizona. She is originally from Haiti and came to the United States in 2002.
19 While she was living with her father in New York, he began abusing her. Years later,
20 when she was placed in deportation proceedings, a federal immigration judge granted her
21 permission to stay in the United States pursuant to the VAWA. Jane Doe #2 is dark-
22 skinned and speaks with a noticeable Haitian accent. She has no form of identification
23 and no documentation of her permission to remain in the United States except for the
24 order of the immigration judge in her case. Jane Doe #2 fears that she will be stopped by
25 law enforcement at a bus stop or on the street and questioned about her immigration status
26 under SB 1070, and that she will be detained because she does not have a registration

1 document. A negative police encounter would impair Jane Doe #2's ability to recover
2 from the trauma of her abuse.

3
4 **Defendants**

5 31. Defendant Michael B. Whiting is the County Attorney of Apache County,
6 Arizona. According to Arizona law, the "county attorney is the public prosecutor of the
7 county and shall . . . conduct, on behalf of the state, all prosecutions for public offenses."
8 Arizona Revised Statutes ("A.R.S.") § 11-532(A). As such, Defendant Whiting is
9 responsible for the enforcement of SB 1070 within Apache County. Defendant Whiting is
10 sued in his official capacity.

11 32. Defendant Edward G. Rheinheimer is the County Attorney of Cochise County,
12 Arizona. As such, Defendant Rheinheimer is responsible for the enforcement of SB 1070
13 within Cochise County. Defendant Rheinheimer is sued in his official capacity.

14 33. Defendant David W. Rozema is the County Attorney of Coconino County,
15 Arizona. As such, Defendant Rozema is responsible for the enforcement of SB 1070
16 within Coconino County. Defendant Rozema is sued in his official capacity.

17 34. Defendant Daisy Flores is the County Attorney of Gila County, Arizona. As
18 such, Defendant Flores is responsible for the enforcement of SB 1070 within Gila County.
19 Defendant Flores is sued in her official capacity.

20 35. Defendant Kenny Angle is the County Attorney of Graham County, Arizona.
21 As such, Defendant Angle is responsible for the enforcement of SB 1070 within Graham
22 County. Defendant Angle is sued in his official capacity.

23 36. Defendant Derek D. Rapier is the County Attorney of Greenlee County,
24 Arizona. As such, Defendant Rapier is responsible for the enforcement of SB 1070 within
25 Greenlee County. Defendant Rapier is sued in his official capacity.

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1 37. Defendant Sam Vederman is the County Attorney of La Paz County, Arizona.
2 As such, Defendant Vederman is responsible for the enforcement of SB 1070 within La
3 Paz County. Defendant Vederman is sued in his official capacity.

4 38. Defendant Richard M. Romley is the County Attorney of Maricopa County,
5 Arizona. As such, Defendant Romley is responsible for the enforcement of SB 1070
6 within Maricopa County. Defendant Romley is sued in his official capacity.

7 39. Defendant Matthew J. Smith is the County Attorney of Mohave County,
8 Arizona. As such, Defendant Matthew Smith is responsible for the enforcement of SB
9 1070 within Mohave County. Defendant Matthew Smith is sued in his official capacity.

10 40. Defendant Bradley Carlyon is the County Attorney of Navajo County,
11 Arizona. As such, Defendant Carlyon is responsible for the enforcement of SB 1070
12 within Navajo County. Defendant Carlyon is sued in his official capacity.

13 41. Defendant Barbara LaWall is the County Attorney of Pima County, Arizona.
14 As such, Defendant LaWall is responsible for the enforcement of SB 1070 within Pima
15 County. Defendant LaWall is sued in her official capacity.

16 42. Defendant James P. Walsh is the County Attorney of Pinal County, Arizona.
17 As such, Defendant Walsh is responsible for the enforcement of SB 1070 within Pinal
18 County. Defendant Walsh is sued in his official capacity.

19 43. Defendant George Silva is the County Attorney of Santa Cruz County,
20 Arizona. As such, Defendant Silva is responsible for the enforcement of SB 1070 within
21 Santa Cruz County. Defendant Silva is sued in his official capacity.

22 44. Defendant Sheila S. Polk is the County Attorney of Yavapai County, Arizona.
23 As such, Defendant Polk is responsible for the enforcement of SB 1070 within Yavapai
24 County. Defendant Polk is sued in her official capacity.

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1 45. Defendant Jon R. Smith is the County Attorney of Yuma County, Arizona. As
2 such, Defendant Smith is responsible for the enforcement of SB 1070 within Yuma
3 County. Defendant Jon Smith is sued in his official capacity.

4 46. Defendant Sheriff Joseph Dedman, Jr. is the County Sheriff of Apache County,
5 Arizona. According to Arizona law, the “sheriff shall . . . arrest and take before the nearest
6 magistrate for examination all persons who attempt to commit or who have committed a
7 public offense.” A.R.S. § 11-441. As such, Defendant Dedman is responsible for the
8 enforcement of SB 1070 within Apache County. Defendant Dedman is sued in his official
9 capacity.

10 47. Defendant Sheriff Larry A. Dever is the County Sheriff of Cochise County,
11 Arizona. As such, Defendant Dever is responsible for the enforcement of SB 1070 in
12 Cochise County. Defendant Dever is sued in his official capacity.

13 48. Defendant Sheriff Bill Pribil is the County Sheriff of Coconino County,
14 Arizona. As such, Defendant Pribil is responsible for the enforcement of SB 1070 within
15 Coconino County. Defendant Pribil is sued in his official capacity.

16 49. Defendant Sheriff John R. Armer is the County Sheriff of Gila County,
17 Arizona. As such, Defendant Armer is responsible for the enforcement of SB 1070 within
18 Gila County. Defendant Armer is sued in his official capacity.

19 50. Defendant Sheriff Preston J. Allred is the County Sheriff of Graham County,
20 Arizona. As such, Defendant Allred is responsible for the enforcement of SB 1070 within
21 Graham County. Defendant Allred is sued in his official capacity.

22 51. Defendant Sheriff Steven N. Tucker is the County Sheriff of Greenlee County,
23 Arizona. As such, Defendant Tucker is responsible for the enforcement of SB 1070 within
24 Greenlee County. Defendant Tucker is sued in his official capacity.

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1 52. Defendant Sheriff Donald Lowery is the County Sheriff of La Paz County,
2 Arizona. As such, Defendant Lowery is responsible for the enforcement of SB 1070
3 within La Paz County. Defendant Lowery is sued in his official capacity.

4 53. Defendant Sheriff Joseph Arpaio is the County Sheriff of Maricopa County,
5 Arizona. As such, Defendant Arpaio is responsible for the enforcement of SB 1070 within
6 Maricopa County. Defendant Arpaio is sued in his official capacity.

7 54. Defendant Sheriff Tom Sheahan is the County Sheriff of Mohave County,
8 Arizona. As such, Defendant Sheahan is responsible for the enforcement of SB 1070
9 within Mohave County. Defendant Sheahan is sued in his official capacity.

10 55. Defendant Sheriff Kelly Clark is the County Sheriff of Navajo County,
11 Arizona. As such, Defendant Clark is responsible for the enforcement of SB 1070 within
12 Navajo County. Defendant Clark is sued in his official capacity.

13 56. Defendant Sheriff Clarence W. Dupnik is the County Sheriff of Pima County,
14 Arizona. As such, Defendant Dupnik is responsible for the enforcement of SB 1070 in
15 Pima County. Defendant Dupnik is sued in his official capacity.

16 57. Defendant Sheriff Paul Babeu is the County Sheriff of Pinal County, Arizona.
17 As such, Defendant Babeu is responsible for the enforcement of SB 1070 within Pinal
18 County. Defendant Babeu is sued in his official capacity.

19 58. Defendant Sheriff Tony Estrada is the County Sheriff of Santa Cruz County,
20 Arizona. As such, Defendant Estrada is responsible for the enforcement of SB 1070 in
21 Santa Cruz County. Defendant Estrada is sued in his official capacity.

22 59. Defendant Sheriff Steve Waugh is the County Sheriff of Yavapai County,
23 Arizona. As such, Defendant Waugh is responsible for the enforcement of SB 1070 within
24 Yavapai County. Defendant Waugh is sued in his official capacity.

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1 government in regulating immigration, stating that “[t]he federal government’s failure
2 requires us to act.” Statement by Governor Janice K. Brewer (Apr. 30, 2010), *available*
3 *at* http://azgovernor.gov/dms/upload/PR_043010_StatementGovBrewer.pdf.

4 66. The sponsors of SB 1070 intended for it to create a statewide regulation of
5 immigration. SB 1070’s author, State Senator Russell Pearce, has touted SB 1070 as a
6 means to achieve the “self-deportation” of undocumented immigrants in the state.
7 *Lawmaker Wants Special Session to Enact AZ Style Immigration Law*, KLAS-TV-CBS
8 NEWS, May 3, 2010, *available at* [http://www.8newsnow.com/Global/story.asp?](http://www.8newsnow.com/Global/story.asp?S=12419197)
9 [S=12419197](http://www.8newsnow.com/Global/story.asp?S=12419197). Another sponsor of SB 1070, State Representative David Gowan, stated
10 that SB 1070 was needed because “[t]he federal government has failed in helping this
11 state seal its borders.” Jeffrey Kaye, *U.S. Congress and Arizona Deliver One-Two Punch*
12 *to Immigrants*, THE HUFFINGTON POST, Apr. 15, 2010, *available at* [http://www.](http://www.huffingtonpost.com/jeffrey-kaye/us-congress-and-arizona-d_b_538369.html)
13 [huffingtonpost.com/jeffrey-kaye/us-congress-and-arizona-d_b_538369.html](http://www.huffingtonpost.com/jeffrey-kaye/us-congress-and-arizona-d_b_538369.html).

14 67. The enactment of SB 1070 was surrounded by a racially charged debate over
15 the wisdom of adopting such a law. In the weeks leading up to passage of the bill,
16 protestors and advocates on both sides of the issue held rallies, issued statements, debated
17 in national media, and bombarded the Governor’s office with e-mails and phone calls.
18 Alia Beard Rau and Ginger Rough, *Ariz. Lawmakers Pass Toughest Illegal Immigration*
19 *Law in U.S.*, ARIZ. REPUBLIC, Apr. 19, 2010, *available at* [http://www.azcentral.com/](http://www.azcentral.com/news/articles/2010/04/19/20100419arizona-immigration-bill-passes.html#ixzz0njXHPCzs)
20 [news/articles/2010/04/19/20100419arizona-immigration-bill-passes.html](http://www.azcentral.com/news/articles/2010/04/19/20100419arizona-immigration-bill-passes.html#ixzz0njXHPCzs)
21 [#ixzz0njXHPCzs](http://www.azcentral.com/news/articles/2010/04/19/20100419arizona-immigration-bill-passes.html#ixzz0njXHPCzs).

22 68. “We are going to look like Alabama in the ’60s,” declared State Representative
23 Bill Konopnicki, Republican of Yuma. Randal Archibold, *Immigration Bill Reflects a*
24 *Firebrand’s Impact*, N.Y. TIMES, Apr. 19, 2010, *available at* [http://www.nytimes.com/](http://www.nytimes.com/2010/04/20/us/20immig.html)
25 [2010/04/20/us/20immig.html](http://www.nytimes.com/2010/04/20/us/20immig.html).

26

1 69. Arizona State Senator Richard Miranda asserted, “This bill . . . leads to a
2 greater possibility of racial profiling. This is not just if you are Latino or Hispanic —
3 anyone of color may be subject to racial profiling.” Robert Miranda, *Ariz. Law Unfair to*
4 *Latinos, Hispanics*, DAILY 49ER, May 2, 2010, available at [http://www.daily49er.com/](http://www.daily49er.com/opinion/ariz-law-unfair-to-latinos-hispanics-1.2256742)
5 [opinion/ariz-law-unfair-to-latinos-hispanics-1.2256742](http://www.daily49er.com/opinion/ariz-law-unfair-to-latinos-hispanics-1.2256742).

6 70. The sponsor of SB 1070, Senator Russell Pearce, has sponsored legislation
7 across a broad range of subjects that are related to issues of race and national origin in
8 Arizona, including a recently-enacted bill intended to ban the Raza Studies program in the
9 Tucson Unified School District. Mary Jo Pitzl, *Arizona Bill Targets Ban on Ethnic*
10 *Studies*, ARIZ. REPUBLIC, May 1, 2010, available at [http://www.azcentral.com/news/](http://www.azcentral.com/news/articles/2010/05/01/20100501arizona-bill-bans-ethnic-studies.html)
11 [articles/2010/05/01/20100501arizona-bill-bans-ethnic-studies.html](http://www.azcentral.com/news/articles/2010/05/01/20100501arizona-bill-bans-ethnic-studies.html). In 2006, Senator
12 Pearce drew fire for racially insensitive remarks and distributing an article from a white
13 separatist group and a link to that group’s website. To his supporters, Mr. Pearce
14 forwarded an email that accused the media of promoting “a world in which every voice
15 proclaims the equality of the races [and] the wickedness of attempting to halt the flood of
16 nonwhite aliens pouring across the borders.” *Ariz. Lawmaker In Hot Water Over Article*,
17 CHARLESTON GAZETTE & DAILY MAIL, Oct. 12, 2006.

18 71. Senator Pearce has called for reinstatement of a program of mass deportation
19 of Mexicans and Mexican Americans, declaring: “We know what we need to do. In
20 1953, Dwight D. Eisenhower put together a task force called ‘Operation Wetback.’ He
21 removed, in less than a year, 1.3 million illegal aliens. They must be deported.” Sarah
22 Lynch, *Pearce calls on Operation Wetback for Illegals*, EAST VALLEY TRIBUNE, Sept. 29,
23 2006. Mr. Pearce has admitted feeling uncomfortable with the way society is changing in
24 Arizona, and attributed a rise in violent crime to Mexicans’ and Central Americans’ “way
25 of doing business.” He described the arrival of immigrants in Arizona as an attack by
26 foreigners: “I will not back off until we solve the problem of this illegal invasion.

1 Invaders, that's what they are. Invaders on the American sovereignty and it can't be
2 tolerated." Ted Robbins, *The Man Behind Arizona's Toughest Immigrant Laws*,
3 NATIONAL PUBLIC RADIO, May 19, 2008, available at [http://www.npr.org/templates/
4 story/story.php?storyId=88125098](http://www.npr.org/templates/story/story.php?storyId=88125098).

5 72. Following signing of the bill by Governor Brewer, the largest newspaper in
6 Tucson lamented that SB 1070 was "a law that portrays the state as a place hostile to any
7 kind of non-white person." Editorial, *Law Creates Fear, Undermines Public Safety*, Ariz.
8 Daily Star, May 7, 2010, available at [http://azstarnet.com/news/opinion/editorial/
9 article_59a4769c-cc60-5618-873a-9e083c643e99.html](http://azstarnet.com/news/opinion/editorial/article_59a4769c-cc60-5618-873a-9e083c643e99.html).

10 73. SB 1070 has caused racial tensions because it is widely understood that it is
11 motivated by and will result in discrimination against Latinos and other racial minorities
12 in Arizona on the basis of their race and national origin.

13 14 **Key Provisions of SB 1070**

15 **Requirement to investigate, determine, and punish status**

16 74. SB 1070's numerous provisions create a comprehensive state-law system of
17 immigration regulation and enforcement that will: (1) require police to investigate and
18 determine who may remain in the United States; (2) erect a state immigration registration
19 and punishment scheme by creating state crimes and criminal penalties relating to alien
20 registration, immigration status, and work authorization; and (3) require police to arrest
21 and detain individuals and transfer them to federal authorities based merely on a belief
22 that they have violated federal civil immigration laws, when state and local officers are
23 not competent to make such a determination or authorized to make it under federal law.

24 75. SB 1070 requires Arizona police, Arizona jails, and Arizona courts to detect,
25 adjudge, punish, and facilitate the deportation of individuals who, in Arizona's view, are
26 not entitled to remain in the United States. SB 1070 makes Arizona a legal island within

1 the United States with separate immigration rules that do not apply in the other 49 states
2 and that are contrary to and inconsistent with the federal Immigration and Nationality Act
3 (“INA”), 8 U.S.C. §§ 1101 *et seq.*, and federal implementing regulations and policies, 8
4 C.F.R. §§ 100.1 *et seq.*

5 76. SB 1070’s attempt to create Arizona-specific laws and enforcement
6 mechanisms relating to immigration is an impermissible attempt to regulate immigration.

7 77. SB 1070’s immigration regime also fundamentally conflicts with federal
8 immigration law and legislates in fields occupied by such law.

9 78. SB 1070 as amended compels police officers to make immigration status
10 determinations and to detain individuals based on a “reasonable suspicion” standard that is
11 unworkable and cannot be applied by state and local officers; that requires impermissible
12 reliance on race, national origin, and language; and that impermissibly burdens and
13 interferes with the rights of lawful permanent resident immigrants and citizens in the State
14 of Arizona.

15 79. As amended by HB 2162, Section 2 of SB 1070 creates a new section of the
16 A.R.S., § 11-1051, which requires a police officer who has conducted a “lawful stop,
17 detention or arrest . . . in the enforcement of any other law or ordinance of a county, city
18 or town or [the State of Arizona]” to make a “reasonable attempt” to determine the
19 immigration status of the person who has been stopped, detained or arrested, whenever
20 “reasonable suspicion exists that the person is an alien and is unlawfully present.” A.R.S.
21 § 11-1051(B).

22 80. The new statute, as amended by HB 2162, also requires that “[a]ny person who
23 is arrested shall have the person’s immigration status determined before the person is
24 released.” A.R.S. § 11-1051(B). This section requires the continued detention of an
25 individual even if the sole reason for detention is status verification.

26

1 81. Section 2 of SB 1070 also authorizes officers to detain and transport a person
2 who is determined by the officer to be an unauthorized immigrant to a federal facility,
3 including a facility outside the officers' jurisdiction, upon receiving verification from
4 federal authorities that the person is "unlawfully present." A.R.S. § 11-1051(D). This
5 section does not require an officer to have any other justification under state law to detain
6 the individual.

7 82. Section 2 of SB 1070 imposes a standard that is unworkable and preempted by
8 federal law. The law requires state or local officers to attempt to determine immigration
9 status, which must be determined through a federal administrative system applying
10 complex federal statutes and regulations, and which is based upon historical facts about an
11 individual that are not observable by an officer in the field.

12 83. Section 2 imposes an impermissible restriction and burden on speech by
13 chilling the usage of words, accents, gestures, and other expressive speech.

14 84. Specifically, Section 2 restricts, suppresses, burdens, and chills speech,
15 expressive conduct, and the right to petition the government—including particularly the
16 courts and law enforcement authorities—because the law exposes speakers to scrutiny,
17 detention, and/or arrest based on the identity of the speakers and the content of their
18 speech, including the speaker's appearance, associations, and the language or accent being
19 used by the speaker, for purposes of determining whether the speaker is "unlawfully
20 present" or has committed a "public offense that makes [him or her] removable." Both
21 citizens and non-citizens may be chilled from communicating with the courts and law
22 enforcement officials out of fear that they will be detained and/or arrested pursuant to SB
23 1070.

24 85. For example, Plaintiff John Doe #1 is a resident of Phoenix, Arizona, and a
25 legal permanent resident. His English proficiency is extremely limited and he speaks
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1 English with a noticeable accent. He fears that he will be targeted pursuant to SB 1070
2 based on the language in which he expresses himself.

3 86. Section 2 impermissibly vests in police officers unbridled discretion to base
4 their “reasonable suspicion” that a “person is an alien and is unlawfully present” on the
5 content of the person’s expressive conduct. Nothing in Section 2 forbids a police officer
6 from developing a “reasonable suspicion” that a person “is an alien” and/or “is unlawfully
7 present” based solely on that person’s gestures, language, accent, clothing, English-word
8 selection, failure to communicate in English, and/or other expressive conduct—all of
9 which is pure speech protected by the First Amendment. Indeed, Section 2 invites a
10 police officer to decide that a person is “an alien” because the person “acts” foreign or
11 fails to “act” American—or to decide that a person is “unlawfully present” because the
12 person “acts” like someone from a country the officer believes to be a source of
13 “unlawfully present” immigrants.

14 87. SB 1070 functions as an impermissible prior restraint on speech because a
15 speaker wishing to avoid being stopped, questioned, detained, arrested, jailed, and/or
16 threatened with civil or criminal liability must be prepared to prove that he or she is not
17 “unlawfully present” or cease engaging in protected speech and expressive conduct.

18 88. Section 2 permits warrantless seizures of individuals without probable cause
19 that they have committed crimes.

20 89. Section 2 authorizes the warrantless search of an individual in any setting,
21 including the individual’s home.

22 90. Section 2 furthermore permits local and state law enforcement officials to seize
23 and detain individuals, pending determination of their immigration status, without
24 providing for any process to ensure the constitutionality of the detention and seizure.

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1 91. SB 1070 similarly interferes with the rights of out-of-state citizens to travel
2 freely in Arizona because it subjects them to prolonged stops, arrest, and detention
3 pending a determination of their immigration status.

4 92. For example, drivers licensed in the neighboring state of New Mexico, which
5 does not require proof of “legal presence” before issuing driver’s licenses, will not be able
6 to prove their authorization to remain in the United States readily if pulled over in
7 Arizona.

8 **Arrest, detention, and transfer provisions**

9 93. Section 6 of SB 1070 amends Arizona’s state law on warrantless arrests,
10 A.R.S. § 13-3883, to allow for the warrantless arrest of a person when an officer has
11 probable cause to believe that the person has committed “any public offense that makes
12 the person removable from the United States.” A.R.S. § 13-3883(A)(5). This provision
13 requires local law enforcement officers to do what they are not equipped or authorized to
14 do: make determinations about which “public offenses” make immigrants “removable”
15 from the United States, determine an alleged offender’s immigration status, and make
16 warrantless arrests solely for suspected violations of civil immigration laws, without
17 regard to whether the federal government has authorized any such arrest or detention.

18 94. Section 6 of SB 1070 permits warrantless arrests by a state or local officer
19 based on a standard that is unworkable and preempted by federal law. Whether an
20 individual is “removable from the United States” is determined through a federal
21 administrative system and application of complex federal statutes and regulations, and is
22 based upon historical facts about an individual. This determination cannot be made by a
23 state or local law enforcement officer.

24 95. Section 6 provides no explanation or other sufficient guidance for individuals
25 as to the meaning of “public offense that makes the person removable from the United
26

1 States.” This provision will cause warrantless seizures of individuals without probable
2 cause that they have committed crimes.

3 96. The broad sweep of Section 6 which allows for warrantless arrests of any
4 person whom a law enforcement officer suspects of having committed a “public offense
5 that makes the person removable from the United States” fails to provide minimal
6 guidelines to govern law enforcement in who they can and cannot arrest.

7 97. Section 6 authorizes the warrantless arrest of an individual in any setting,
8 including the individual’s home.

9 98. Section 6 furthermore permits local and state law enforcement officials to
10 detain and transport individuals to federal facilities in the state, without providing for any
11 process to ensure the constitutionality of the detention.

12 **New state criminal provisions relating to immigration status and to work authorization**

13 99. Section 3 of SB 1070, as amended by HB 2162, enacts a state immigration
14 registration and penalty scheme in an area that Congress has exclusively regulated. SB
15 1070 conflicts with federal law and enforcement priorities, burdens the enforcement of
16 federal law and is an obstacle to federal immigration enforcement and prosecution
17 policies. Specifically, SB 1070 creates a new state criminal offense of “willful failure to
18 complete or carry an alien registration document.” A.R.S. § 13-1509. The primary
19 element of the offense is that the person “is in violation of 8 United States Code section
20 1304(e) or 1306(a),” federal statutes that impose certain requirements that non-citizens
21 register with the federal government and carry registration documents. Under SB 1070,
22 the first offense is deemed a Class 1 misdemeanor, punishable by a fine of up to \$100 and
23 up to 20 days of jail time. A.R.S. § 13-1509(H). Subsequent offenses are punishable by
24 up to 30 days of jail time. *Id.*

25 100. The purpose of the state registration provision is to punish immigrants with
26 incarceration or to compel the initiation of federal immigration removal proceedings

1 without regard to federal determinations and policies. State Senator Russell Pearce, chief
2 sponsor of SB 1070, has stated that this provision of SB 1070 is intended to give law
3 enforcement officers an additional means by which to “hold an illegal alien under state
4 law if need be or just call ICE and turn them over to ICE.” *See* Message From Sen.
5 Russell Pearce (Mar. 24, 2010), *available at* [http://www.maricopagop.org/2010/03/](http://www.maricopagop.org/2010/03/24/legislative-alert-hb-2632-and-sb1070/#more-1962)
6 [24/legislative-alert-hb-2632-and-sb1070/#more-1962](http://www.maricopagop.org/2010/03/24/legislative-alert-hb-2632-and-sb1070/#more-1962).

7 101. Section 5 of SB 1070 defines new state crimes based on the solicitation and
8 performance of work by individuals who lack federal work authorization. A.R.S. § 13-
9 2928. This section makes it a Class 1 misdemeanor for anyone who attempts to hire or
10 pick up day laborers to work at a different location, if the driver is impeding the normal
11 flow of traffic. A.R.S. § 13-2928(A). This section also makes it a misdemeanor offense
12 for a worker to get into a car if it is impeding traffic. A.R.S. § 13-2928(B). The statute
13 also makes it a state crime for a person who “is unlawfully present in the United States
14 and who is an unauthorized alien to knowingly apply for work, solicit work in a public
15 place or perform work as an employee or independent contractor in this state.” A.R.S. §
16 13-2928(C).

17 102. Section 5 of SB 1070 creates a content-based regulation of protected speech.

18 103. Section 5 prohibits and regulates speech soliciting “*work* in a public place”
19 (emphasis added) through verbal or nonverbal communication by a gesture or nod,
20 making it a crime for certain individuals to do so, while speech of a different content, even
21 if expressed in the same time, place, and manner, is not so proscribed.

22 104. Section 5 prohibits the expression of availability to work in any “public place,”
23 including traditional public fora such as public streets, sidewalks, and parks.

24 105. Section 5 fails to define what constitutes “work,” covering such innocuous
25 activity as artists offering to paint portraits in a public park and students conducting a car-
26 wash. Section 5 contains an impermissibly vague definition of “solicit” as it includes all

1 verbal communication without qualification and brings within its reach “nonverbal
2 communication by a gesture or nod.” Section 5 also requires that the “communication . . .
3 indicate to a reasonable person that a person is willing to be employed,” which is so vague
4 as to be unenforceable, and could criminalize conduct, such as waving to a friend, which
5 is not, in fact, soliciting work.

6 106. Arizona does not have a compelling or significant governmental interest in
7 regulating speech and expression in the content-based manner employed by SB 1070. Nor
8 is SB 1070 the least restrictive means to further any such interest.

9 107. Section 5 also makes it unlawful for a person who is “unlawfully present” in
10 the United States and who is unauthorized to work to solicit work in a public place or to
11 knowingly apply for work regardless of whether any employment or business relationship
12 is entered into.

13 108. Since the work of day laborers is by definition temporary and informal, day
14 laborers and the contractors who hire them do not find each other through conventional
15 advertising of availability. Rather, day laborers signal their availability for work by
16 visibly gathering in public areas such as sidewalks or parking lots and gesturing to
17 potential employers.

18 109. Many persons, including members of Tonatierra’s Centro Macehualli, persons
19 who participate in Southside’s day laborer program, members of Border Action Network,
20 and Plaintiff Jose Vargas have previously expressed their desire, need, and availability for
21 employment to persons in vehicles on the street, while peacefully standing on a public
22 way, and have obtained lawful employment performing services such as gardening,
23 moving, and light construction. These individuals and other day laborers wish to continue
24 to engage in such expressive activity on sidewalks and other public areas in Arizona to
25 indicate their need and availability to work. Indeed, for many, day labor is a critical, and
26 oftentimes the only available means to obtain work. However, individuals fear doing so

1 in the same manner as they have in the past because A.R.S. §§ 13-2928(C) and (D)
2 subject them to the danger of arrest, fines, and other penalties should they engage in such
3 expression.

4 110. Section 5 of SB 1070 also creates several new state criminal laws prohibiting
5 the transporting, moving, concealing or harboring of unauthorized immigrants. A.R.S. §§
6 13-2929(A)(1) and (2). This section also makes it a crime to “encourage or induce an
7 alien to come to or reside in [Arizona]” with knowledge or reckless disregard of the fact
8 that “such coming to, entering or residing in this state is or will be in violation of law.”
9 A.R.S. § 13-2929(A)(3). A person who violates these provisions would be subject to a
10 class 1 misdemeanor and a fine of at least \$1,000 with additional penalties where the
11 offense involves ten or more immigrants. A.R.S. § 13-2929(D).

12 111. In addition, under section 10 of SB 1070, any means of transportation will be
13 impounded if it is deemed to have been used in connection with violations of the
14 harboring statute. A.R.S. § 13-2929(B).

15 112. The transportation, harboring, and encouragement provisions of SB 1070
16 provide no explanation or other sufficient guidance for individuals as to what actions will
17 be deemed “in furtherance of illegal presence” or “that the immigrant has entered or
18 remained in the United States illegally.”

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1 **Coercion of state and local police**

2 113. Section 2 of SB 1070, as amended, creates a private right of action for any
3 person to sue a city, town, or county “that adopts or implements a policy that limits or
4 restricts the enforcement of federal immigration laws to less than the full extent permitted
5 by federal law.” This provision requires state and local law enforcement agencies to
6 prioritize immigration over many competing law enforcement activities and thus strips
7 agencies of their discretion to exercise considered judgment about how best to ensure
8 public safety.

9
10 **Comprehensive Federal Immigration System**

11 114. The federal government has exclusive power over immigration matters. The
12 U.S. Constitution grants the federal government the power to “establish a uniform Rule of
13 Naturalization,” U.S. Const. art. I, § 8, cl. 4, and to “regulate Commerce with foreign
14 Nations,” U.S. Const. art. I, § 8, cl. 3. In addition, the Supreme Court has held that the
15 Federal government’s power to control immigration is inherent in the nation’s
16 sovereignty.

17 115. The U.S. Congress has created a comprehensive system of federal laws
18 regulating and enforcing immigration in the INA. *See* 8 U.S.C. § 1101 *et seq.* This
19 extensive statutory scheme leaves no room for supplemental state laws.

20 116. The federal government has also issued numerous regulations, policies, and
21 procedures interpreting the provisions of the INA and has established a large and complex
22 administrative apparatus to carry out its mandates.

23 117. The INA carefully calibrates the nature (criminal or civil) and degree of
24 penalties applicable to each possible violation of its terms.

25 118. The INA contains complex and exclusive procedures for determining
26 immigration and citizenship status, deciding whether the civil provisions of the

1 immigration laws have been violated, and determining whether an individual may
2 lawfully be removed from the United States.

3 119. Under federal law, there is no single, readily ascertained category or
4 characteristic that establishes whether a particular person may or may not remain in the
5 United States. The answer to that question is a legal conclusion that can only be reached
6 through the processes set forth in the INA and may depend on the discretionary
7 determinations of federal officials.

8 120. There are many non-citizens who are present in the United States without
9 formal permission who lack the “registration document” mandated by SB 1070, yet would
10 not be removed if placed in federal removal proceedings. For example, an individual may
11 be eligible for some form of immigration relief, such as asylum, adjustment of status, or
12 withholding of removal. Some of these individuals are known to the federal government;
13 others will not be identified until they are actually placed in proceedings by the federal
14 government and their cases are adjudicated.

15 121. Federal immigration agencies such as ICE or U.S. Customs and Border
16 Protection do not and cannot determine whether a particular person may remain in the
17 United States, or whether a particular person has committed a “public offense” that would
18 make the person “removable,” without going through the procedures set forth in the INA.
19 Federal agencies similarly do not and cannot determine definitively, in response to a
20 demand from a state or local official, whether an individual is “unlawfully present” or has
21 “authorization to remain in the United States” as those phrases are used in SB 1070. The
22 databases searched in response to these queries are not set up to make final determinations
23 of whether an individual has federally authorized immigration status. These agencies can
24 only determine whether they believe a non-citizen may be *charged* with deportability.
25 Such a prosecutorial decision is not a determination of the individual’s “immigration
26 status,” which entails a complex administrative process. The phrase “immigration status”

1 is usually used to refer to a number of categories defined by the INA for classifying
2 individuals, not the ultimate question of whether an individual may remain in the United
3 States.

4 122. Furthermore, determining whether or not a person is a citizen of the United
5 States can be a complex and counterintuitive process. U.S. citizens are not required to
6 carry documentary proof of their citizenship. There is no national database that contains
7 information on every U.S. citizen. Some people are actually unaware of their U.S.
8 citizenship because they may have acquired U.S. citizenship at birth by operation of law
9 due to their parents' citizenship, despite not being born in the United States. *See, e.g.,*
10 INA § 322, 8 U.S.C. § 1433. Others automatically obtained citizenship when their parents
11 became naturalized U.S. citizens. *See, e.g.,* INA § 320, 8 U.S.C. § 1431.

12 123. SB 1070's creation of a state immigration system fundamentally conflicts with
13 the INA's statutory scheme, impermissibly encroaches on the federal government's
14 exclusive power to regulate immigration, and will lead to erroneous determinations by
15 state and local officials.

16 124. Moreover, SB 1070 conflicts with and is preempted by provisions of the INA
17 that set forth comprehensive federal schemes addressing: (1) alien registration; (2)
18 transportation and harboring; (3) work authorization and sanctions for unauthorized work;
19 and (4) arrest authority for immigration violations.

20 **Federal registration system**

21 125. The INA includes a national alien registration system that displaces and
22 preempts state alien registration laws.

23 126. The federal alien registration scheme requires certain non-citizens to register
24 with the federal government and to carry proof of this registration with them. 8 U.S.C. §§
25 1302, 1306(a), and 1304(d)-(e). Specifically, the INA requires every non-citizen in the
26 United States over the age of 14 who has been in the United States for over 30 days to

1 apply for registration with the federal government. 8 U.S.C. § 1302(a). Once registered,
2 non-citizens are given a “certificate of alien registration or an alien registration receipt
3 card,” the form and issuance of which are to be prescribed in “regulations issued by the
4 Attorney General.” 8 U.S.C. § 1304(d). Non-citizens over the age of 18 who willfully
5 fail to carry these documents face fines or prison time of up to 30 days. 8 U.S.C. §
6 1304(e). Non-citizens who willfully fail to register face fines or prison time of up to six
7 months. 8 U.S.C. § 1304(a).

8 127. The federal registration scheme has been in place since 1940 and was designed
9 to create a single, uniform, national scheme.

10 128. The preemptive effect of the federal alien registration scheme was expressly
11 recognized by the President of the United States when the scheme was created and has
12 been expressly upheld by the Supreme Court.

13 129. The federal regulation implementing 8 U.S.C. §§ 1302, 1304, and 1306
14 prescribes as “evidence of registration” specific forms for compliance. *See* 8 C.F.R. §
15 264.1. The list, however, has not been kept up to date with current federal forms and
16 procedures. As a result, there are categories of noncitizens who have applied for
17 immigration benefits or whose presence in the United States is otherwise known to federal
18 immigration agencies but who do not have registration documents that are valid under the
19 regulation.

20 130. Many of the changes that have been made to the INA since the enactment of
21 the registration provisions reflect Congress’s decision to focus on and prioritize
22 immigration enforcement against those immigrants who commit serious criminal offenses.
23 Targeting immigrants convicted of serious crimes, rather than those who may be in
24 violation of the registration provisions, is the principal priority of federal immigration
25 officers.

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1 **Federal transportation provision**

2 131. The INA also establishes criminal penalties for the transporting and harboring
3 of certain non-citizens. *See* 8 U.S.C. §§ 1324(a)(1)-(2). Violations of these provisions
4 carry fines and prison terms ranging from five years to life. *Id.*

5 132. The federal courts are engaged in an ongoing process of interpreting the
6 statutory language in 8 U.S.C. § 1324(a) and determining the reach of the federal
7 prohibitions therein. Arizona law enforcement officers are neither trained nor equipped to
8 have a detailed and current understanding of these interpretations.

9 133. Arizona courts are not required to interpret the language in SB 1070 regarding
10 transportation and harboring consistently with the federal courts' interpretation of similar
11 language in federal law.

12 134. SB 1070's transportation and harboring provisions require Arizona's courts, as
13 a prerequisite to finding a violation, to determine whether an alien "has come to, entered,
14 or remains in the United States in violation of the law" or whether an alien's entry "will
15 be in violation of law" as those terms are used in 8 U.S.C. § 1324(a).

16 **Federal employment authorization and sanctions system**

17 135. The INA contains a comprehensive scheme to regulate the employment of
18 aliens that reflects a careful balance between multiple objectives, including the desire to
19 reduce unauthorized employment, to protect workers against discrimination, and to
20 impose manageable standards on employers and workers. The comprehensiveness of that
21 federal scheme has been recognized by the Supreme Court.

22 136. Congress chose to regulate alien employment in the INA by focusing on
23 employers. Employers are required to verify the employment authorization of applicants
24 on Form I-9, and employers who knowingly employ unauthorized workers are subject to
25 civil penalties or criminal penalties if the violation is sufficiently severe. Federal law does
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1 not impose fines or criminal penalties on unauthorized workers simply for working
2 without authorization.

3 137. Arizona's decision to criminalize unauthorized employment despite
4 Congress's choice of other means to address such conduct directly conflicts with federal
5 law.

6 **Federal restrictions on arrest authority**

7 138. State and local police have no general authority to enforce federal immigration
8 law. Federal law specifically authorizes state officers to assist in immigration
9 enforcement only in narrowly defined circumstances and otherwise reserves immigration
10 enforcement authority to the federal government.

11 139. Section 1357(g) of Title 8 of the U.S. Code allows the federal government to
12 "enter into a written agreement with a State, or any political subdivision" to carry out
13 "function[s] of an immigration officer in relation to the investigation, apprehension, or
14 detention of aliens in the United States." 8 U.S.C. § 1357(g). These agreements are
15 commonly referred to as "287(g) agreements" after the section of the INA in which they
16 are codified. However, such agreements may be entered into only if the federal
17 government determines the state officers are "qualified to perform a function of an
18 immigration officer," *id.*, and the federal government must train and supervise officers
19 who are authorized under such an agreement. Nine agencies in Arizona have current
20 agreements pursuant to this statutory provision.

21 140. SB 1070 explicitly grants state and local law enforcement officers authority to
22 make immigration determinations, arrests, and investigations without and outside of the
23 authority provided by a 287(g) agreement, even with respect to those agencies in Arizona
24 that have a 287(g) agreement.

25 141. The other provisions in federal law authorizing state or local immigration
26 enforcement are also carefully constrained. State and local police are authorized to make

1 arrests for certain immigration crimes—smuggling, transporting, or harboring *criminal*
2 aliens, and illegal entry by a previously deported felon. 8 U.S.C. §§ 1103(a)(10), 1252c.
3 Another provision, 8 U.S.C. § 1103(a)(10), allows the Attorney General to authorize “any
4 State or local law enforcement officer” to enforce immigration laws upon certification of
5 “an actual or imminent mass influx of aliens,” but no such certification has occurred.

6 142. Congress’s intent that state and local officers are generally prohibited from
7 enforcing immigration laws is clear both from the statutory scheme and from the
8 statements of its members.

9 143. Even as to federal immigration officers, the INA and associated regulations
10 contain significant restrictions on the circumstances in which warrantless arrests may be
11 made and the procedures that are required following such arrests. 8 U.S.C. §§ 1357(a),
12 (d); 8 C.F.R. §§ 287.1-287.3, 287.5, 287.8, 287.10.

13 14 **SB 1070 Interferes with Federal Interests**

15 144. Federal officials at the very highest levels oppose SB 1070 as interfering with
16 federal governmental interests.

17 145. Janet Napolitano, the immediate past governor of Arizona and current U.S.
18 Secretary of Homeland Security, said, “The Arizona immigration law will likely hinder
19 federal law enforcement from carrying out its priorities of detaining and removing
20 dangerous criminal aliens.” *Divisive Ariz. Immigration Bill Signed Into Law*, CBS/AP,
21 Apr. 23, 2010, available at [http://www.cbsnews.com/stories/2010/04/23/politics/
22 main6426125.shtml](http://www.cbsnews.com/stories/2010/04/23/politics/main6426125.shtml).

23 146. SB 1070 also has created serious foreign relations issues for the U.S.
24 government. U.S. Secretary of State Hillary Clinton noted that the government of Mexico
25 issued a travel advisory for its citizens traveling in Arizona and that SB 1070 had the
26 potential to upset U.S.-Mexico diplomatic efforts on drug enforcement in the border

1 region. Alicia Mundy, *Hillary Clinton Migrates into Arizona Law Controversy*, WALL
 2 STREET J. (online edition), May 2, 2010, available at [http://blogs.wsj.com/washwire/2010/](http://blogs.wsj.com/washwire/2010/05/02/hillary-clinton-migrates-into-arizona-law-controversy/)
 3 [05/02/hillary-clinton-migrates-into-arizona-law-controversy/](http://blogs.wsj.com/washwire/2010/05/02/hillary-clinton-migrates-into-arizona-law-controversy/). Mexican President Felipe
 4 Calderón stated that SB 1070 will “seriously affect[]” trade and political ties with
 5 Arizona. *FCH Condemns Anti-Immigrant Law*, THE NEWS, Apr. 27, 2010, available at
 6 <http://thenews.com.mx/articulo/fch-condemns-anti-immigrant-law-10427>. The Foreign
 7 Secretary of Mexico, Patricia Espinosa, also said that SB 1070 will affect U.S.-Mexico
 8 relations and “obligates the Mexican government to reconsider the viability and
 9 usefulness of cooperation agreements that have been developed with Arizona.” Erin
 10 Kelly, *Arizona Immigration Law Revives Calls for Federal Action on Reform*, ARIZ.
 11 REPUBLIC, Apr. 24, 2010, available at [http://www.azcentral.com/arizonarepublic/news/](http://www.azcentral.com/arizonarepublic/news/articles/2010/04/24/20100424arizona-immigration-bill-federal-action.html)
 12 [articles/2010/04/24/20100424arizona-immigration-bill-federal-action.html](http://www.azcentral.com/arizonarepublic/news/articles/2010/04/24/20100424arizona-immigration-bill-federal-action.html).

13 147. Like Mexico, the government of El Salvador has issued a travel advisory for its
 14 nationals traveling to Arizona. See Jonathan Cooper & Paul Davenport, *Lawsuits Target*
 15 *New Arizona Immigration Law*, ASSOCIATED PRESS, Apr. 29, 2010, available at
 16 http://www.msnbc.msn.com/id/36853483/ns/us_news-crime_and_courts/.

17 148. Guatemala’s Foreign Relations Department decried SB 1070 in a statement
 18 saying “it threatens basic notions of justice.” See *Civil Rights Groups Fight Ariz.*
 19 *Immigration Law*, ASSOCIATED PRESS, Apr. 24, 2010, available at [http://www.](http://www.msnbc.msn.com/id/36735281)
 20 [msnbc.msn.com/id/36735281](http://www.msnbc.msn.com/id/36735281).

21
 22 **SB 1070 Promotes Racial Profiling and Endangers Minority Communities**

23 149. Janet Napolitano stated that SB 1070 “is a very difficult bill to enforce in a
 24 racially neutral way.” Eric Zimmerman, *Justice Dept. May Challenge Arizona Law*, THE
 25 HILL, Apr. 27, 2010, available at [http://thehill.com/blogs/blog-briefing-](http://thehill.com/blogs/blog-briefing-room/news/94631-justice-dept-may-challenge-to-ariz-law-in-court)
 26 [room/news/94631-justice-dept-may-challenge-to-ariz-law-in-court](http://thehill.com/blogs/blog-briefing-room/news/94631-justice-dept-may-challenge-to-ariz-law-in-court). According to
 Napolitano, “I think it does and can invite racial profiling.” Jake Tapper, *Napolitano:*

1 *Arizona Law “Bad for Law Enforcement”*, ABC NEWS: POLITICAL PUNCH, May 2, 2010,
2 *available at* [http://blogs.abcnews.com/politicalpunch/2010/05/napolitano-arizona-law-](http://blogs.abcnews.com/politicalpunch/2010/05/napolitano-arizona-law-bad-for-law-enforcement.html)
3 [bad-for-law-enforcement.html](http://blogs.abcnews.com/politicalpunch/2010/05/napolitano-arizona-law-bad-for-law-enforcement.html).

4 150. Attorney General Eric Holder further criticized SB 1070, saying, “I think we
5 could potentially get on a slippery slope where people will be picked on because of how
6 they look as opposed to what they have done, and that is, I think, something that we have
7 to try to avoid at all costs.” *Holder: Feds May Sue Over Arizona Immigration Law*, CNN,
8 May 9, 2010, *available at* [http://www.cnn.com/2010/POLITICS/05/09/holder.arizona-](http://www.cnn.com/2010/POLITICS/05/09/holder.arizona-immigration/index.html)
9 [immigration/index.html](http://www.cnn.com/2010/POLITICS/05/09/holder.arizona-immigration/index.html). Attorney General Holder also stated that implementation of SB
10 1070 will lead to “a situation where people are racially profiled, and that could lead to a
11 wedge drawn between certain communities and law enforcement, which leads to the
12 problem of people in those communities not willing to interact with people in law
13 enforcement, not willing to share information, not willing to be witnesses where law
14 enforcement needs them.” *Id.*

15 151. Many prominent law enforcement and elected officials in Arizona have
16 condemned SB 1070 on the grounds that it will lead to rampant racial profiling, divert
17 resources from law enforcement work, keep immigrants and other people of color from
18 reporting crimes to police, and ultimately diminish community safety.

19 152. Former Governor Napolitano said, “With the strong support of state and local
20 law enforcement, I vetoed several similar pieces of legislation as governor of Arizona
21 because they would have diverted critical law enforcement resources from the most
22 serious threats to public safety and undermined the vital trust between local jurisdictions
23 and the communities they serve.” *Divisive Ariz. Immigration Bill Signed Into Law*,
24 CBS/AP, Apr. 23, 2010, *available at* [http://www.cbsnews.com/stories/2010/04/23/](http://www.cbsnews.com/stories/2010/04/23/politics/main6426125.shtml)
25 [politics/main6426125.shtml](http://www.cbsnews.com/stories/2010/04/23/politics/main6426125.shtml).

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1 153. The Arizona Association of Chiefs of Police opposed SB 1070, stating that SB
2 1070 “will negatively affect the ability of law enforcement agencies across the state to
3 fulfill their many responsibilities in a timely manner.” See Press Release, Arizona
4 Association of Chiefs of Police, AACOP Statement on Senate Bill 1070, available at
5 http://www.leei.us/main/media/AACOP_STATEMENT_ON_SENATE_bill_1070.pdf.

6 154. Pima County Sheriff Clarence Dupnik has warned that the law will lead to
7 racial profiling. He stated, “[i]f I tell my people to go out and look for A, B, and C,
8 they're going to do it. They'll find some flimsy excuse like a tail light that's not
9 working as a basis for a stop, which is a bunch of baloney.” See *The Dupnik Rebellion:
10 Pima's Top Cop Says 'No' to SB 1070*, KGUN-ABC NEWS, Apr. 27, 2010, available at
11 <http://www.kgun9.com/Global/story.asp?S=12386648>.

12 155. Chief John Harris of the Sahuarita Police Department, who is the current
13 president of the Arizona Association of Chiefs of Police, cautioned that “victims may not
14 report crimes to his officers” as a result of SB 1070. See Dan Whitcomb, *Arizona Police
15 Chief Criticizes Immigration Law*, REUTERS, Apr. 30, 2010, available at
16 <http://www.reuters.com/article/idUSTRE63T5G220100430>; see also Nathan Thornburg,
17 *Arizona Police Split on Immigration Crackdown*, TIME.COM, Apr. 30, 2010, available at
18 <http://www.time.com/time/nation/article/0,8599,1986080,00.html>

19 156. Phil Gordon, the Mayor of Phoenix, stated that SB 1070 “unconstitutionally
20 co-opts our police force to enforce immigration laws that are the rightful jurisdiction of
21 the federal government.” Phil Gordon, *Not in My State: Anti-Immigration Law Doesn't
22 Reflect the Beliefs of Arizona's People*, WASH. POST, Apr. 24, 2010, available at
23 <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/23/>
24 [AR2010042304469.html](http://www.washingtonpost.com/wp-dyn/content/article/2010/04/23/AR2010042304469.html).

25 157. The policies and practices of the Maricopa County Sheriff's Office (“MCSO”)
26 demonstrate that SB 1070 cannot be enforced without improperly singling out racial and

1 ethnic minorities, including many U.S. citizens and persons authorized by the federal
2 government to be present in the U.S., for stops, interrogations, arrests, and detentions.

3 158. Maricopa County Sheriff Arpaio has publicly stated that his own agency has
4 been doing what he believes SB 1070 mandates. MSNBC NEWS, April 26, 2010,
5 available at <http://www.youtube.com/watch?v=UHfOBUDzoPo>. Three years ago, Sheriff
6 Arpaio announced that MCSO was becoming “a full fledged anti-illegal immigration
7 agency.” Judi Villa and Yvonne Wingett, *Sheriff Unveils Migrant Hotline*, ARIZ.
8 REPUBLIC, Jul. 21, 2007, available at [http://www.azcentral.com/arizonarepublic/
9 local/articles/0721hotline0721.html](http://www.azcentral.com/arizonarepublic/local/articles/0721hotline0721.html).

10 159. According to MCSO training materials, the fact that an individual has no
11 English skills or speaks English poorly is a factor indicating that an individual is not
12 “lawfully present” in the United States. Alia Beard Rau and Mary Jo Pitzl, *Momentum
13 Built Over Years Led to Immigration Law*, ARIZ. REPUBLIC, May 9, 2010, available at
14 [http://www.azcentral.com/arizonarepublic/news/articles/2010/05/09/20100509immigratio
15 n-law-momentum.html](http://www.azcentral.com/arizonarepublic/news/articles/2010/05/09/20100509immigratio) (training video on right hand panel); see also J.J. Hensley, *New
16 Law Could Encourage Immigration Sweeps*, ARIZ. REPUBLIC, May 1, 2010, available at
17 [http://www.azcentral.com/arizonarepublic/local/articles/2010/05/01/20100501phoenix-
18 joe-arpaio-crime-sweep.html](http://www.azcentral.com/arizonarepublic/local/articles/2010/05/01/20100501phoenix-) (describing training video).

19 160. As part of its focus on immigration enforcement, MCSO has systematically
20 used pretextual stops to investigate immigration, targeting Latinos. Since 2007, the
21 agency has instituted a policy of identifying day laborers and persons appearing to be
22 Latino whom deputies should investigate for potential immigration violations, and then
23 developing probable cause for a traffic violation to stop them.

24 161. A comprehensive investigation by the Arizona Republic found that during
25 eight MCSO so-called “crime suppression operations” studied, MCSO deputies engaged
26 in selective enforcement of the traffic law, and that the majority of drivers and passengers

1 arrested were Latino even in predominantly White areas. Daniel Gonzalez, *Sheriff's*
2 *Office Says Race Plays No Role in Who Gets Pulled Over*, ARIZ. REPUBLIC, Oct. 5, 2008,
3 *available at* [http://www.azcentral.com/news/articles/2008/10/05/20081005arpaio-](http://www.azcentral.com/news/articles/2008/10/05/20081005arpaio-profiling1005.html)
4 [profiling1005.html](http://www.azcentral.com/news/articles/2008/10/05/20081005arpaio-profiling1005.html).

5 162. As a result of evidence of a pattern and practice of civil rights violations,
6 MCSO is currently the subject of a civil rights investigation by the U.S. Department of
7 Justice.

8 163. Demonstrating that the intent of SB 1070, as amended by HB 2162, is to
9 enable pretextual stops and arrests for the purpose of immigration enforcement, State
10 Senator Russell Pearce inadvertently circulated an email on April 28, 2010 which
11 explained one provision of HB 2162 as follows: "When we drop out 'lawful contact' and
12 replace it with 'a stop, detention, or rest [*sic*], in the enforcement a violation of any title or
13 section of the Arizona code' we need to add 'or any county or municipal ordinance.' This
14 will allow police to use violations of property codes (i.e. cars on blocks in the yard) or
15 rental codes (too many occupants of a rental accommodation) to initiate queries as well."
16 Gabriel Winant, *E-Mail Reveals Arizona Law Was Designed To Maximize Harassment*,
17 SALON, May 3, 2010, *available at* [http://www.salon.com/news/politics/war_room/](http://www.salon.com/news/politics/war_room/2010/05/03/arizona_kobach_profiling)
18 [2010/05/03/arizona_kobach_profiling](http://www.salon.com/news/politics/war_room/2010/05/03/arizona_kobach_profiling). SB 1070 was intended to create opportunities for
19 officers to determine which members of the community should be investigated as to their
20 immigration status first, and then to develop a pretextual reason to stop them for some
21 other violation of state or local law second.

22 23 **CLASS ACTION ALLEGATIONS**

24 164. The Individual Plaintiffs bring this action on behalf of themselves and all other
25 persons similarly situated pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2).
26 The class, as proposed by Plaintiffs, consists of all persons:

- 1 (a) who as a result of their race or national origin are or will be subject to
2 stop, detention, arrest or questioning about their immigration or
3 nationality status or required to produce documentation of that status,
4 pursuant to a provision of SB 1070; or
5 (b) who are or will be deterred from soliciting employment in a public place
6 or performing work as an employee or independent contractor by § 5 of
7 SB 1070; or
8 (c) who are or will be deterred from using their customary language, accent,
9 or other expressive conduct, or from approaching government officials to
10 obtain redress because of the provisions of SB 1070; or
11 (d) who are or will be deterred from living, associating, worshiping, or
12 traveling with immigrants in Arizona because of the provisions of SB
13 1070; or
14 (e) who are or will be deterred from traveling into or through the State of
15 Arizona because of the provisions of SB 1070.

16 165. The requirements of Federal Rules of Civil Procedure 23(a) and 23(b)(2) are
17 met in that the class is so numerous that joinder of all members is impracticable.

18 166. There are questions of law and fact common to the proposed class, including:
19 (1) whether SB 1070 is preempted by the U.S. Constitution and federal law; (2) whether
20 SB 1070 deprives racial and national origin minorities of the equal protection of the laws
21 within the meaning of the Fourteenth Amendment of the U.S. Constitution; (3) whether
22 SB 1070 violates the First Amendment of the U.S. Constitution; (4) whether SB 1070
23 violates the Fourth Amendment of the U.S. Constitution and Article 2, Section 8 of the
24 Arizona Constitution; (5) whether SB 1070 is impermissibly vague and violates due
25 process of law; and (6) whether SB 1070 infringes on the right to travel of members of the
26 proposed class. These questions predominate over any questions affecting only the
Individual Plaintiffs.

1 167. The claims of the Individual Plaintiffs are typical of the claims of the proposed
2 class.

3 168. All of the Individual Plaintiffs will fairly and adequately represent the interests
4 of all members of the proposed class because they seek relief on behalf of the class as a
5 whole and have no interests antagonistic to other members of the class. The Individual
6 Plaintiffs are also represented by *pro bono* counsel, including the ACLU of Arizona, the
7 ACLU Foundation Immigrants' Rights Project, the Mexican American Legal Defense and
8 Educational Fund, the National Immigration Law Center, the Asian Pacific American
9 Legal Center (a member of the Asian American Center for Advancing Justice), the
10 National Day Laborer Organizing Network, the National Association for the
11 Advancement of Colored People, and Munger, Tolles & Olson LLP, who have extensive
12 expertise in class action litigation, including litigation regarding the rights of immigrants.
13 Finally, Defendants have acted and will act on grounds generally applicable to the class in
14 executing their duties to enforce SB 1070, thereby making appropriate final injunctive
15 relief with respect to the class as a whole.

16
17 **DECLARATORY AND INJUNCTIVE RELIEF ALLEGATIONS**

18 169. An actual and substantial controversy exists between Plaintiffs and Defendants
19 as to their respective legal rights and duties. Plaintiffs contend that they face an imminent
20 threat of harm if SB 1070 is enforced, and that SB 1070 violates the U.S. Constitution,
21 federal law, and state law. Defendants are obligated to enforce SB 1070 unless it is found
22 to be illegal.

23 170. In violating Plaintiffs' rights under the U.S. Constitution, federal law, and state
24 law, Defendants have acted and will be acting under color of law.

25 171. If allowed to go into effect, SB 1070 will cause irreparable injury to Plaintiffs.
26

1 172. Plaintiffs have no plain, speedy, and adequate remedy at law against SB 1070
2 other than the relief requested in this Complaint.

3 173. Article IV, part 1, § 1(3) of the Arizona Constitution provides that “no act
4 passed by the legislature shall be operative for ninety days after the close of the session of
5 the legislature enacting such measure,” except certain specifically designated “emergency
6 measures.” The legislative session during which SB 1070 and HB 2162 were enacted
7 ended on April 29, 2010. Accordingly, the effective date of SB 1070 is July 28, 2010.

8 174. If SB 1070 goes into effect and is not enjoined, Plaintiffs will suffer irreparable
9 harm as alleged above.

10 175. SB 1070 will require persons in the state to carry immigration registration
11 documents under state law to avoid detention, arrest, and possible prosecution. In
12 addition, SB 1070 will cause the investigation, detention, harassment, and arrest of
13 numerous persons of color in Arizona, including members of Plaintiffs UFCW, BAN,
14 Tonatierra, SEIU, SEIU Arizona, MAS, and JACL, as well as Individual Plaintiffs
15 Andrew Anderson, Vicki Gaubeca, C.M., Luz Santiago, Jim Shee, Jose Vargas, Jesús
16 Cuauhtémoc Villa, John Doe #1, Jane Does #1-2, and members of the plaintiff class.

17 176. In addition, SB 1070 will thwart the mission of and subject to criminal
18 prosecution numerous service and business organizations, including Plaintiffs Friendly
19 House, ASASF, AZHCC, Valle del Sol, and Derechos Humanos.

20 177. In doing the things alleged in this Complaint, defendants will deny plaintiffs’
21 rights secured by the U.S. Constitution, federal law, and state law.

22 178. Defendants’ implementation of SB 1070 will constitute an official policy of
23 their respective jurisdictions.

24 179. Plaintiffs are entitled to a declaration that SB 1070 is unconstitutional on its
25 face and to an order preliminarily and permanently enjoining its enforcement.
26

1 **CAUSES OF ACTION**

2 **COUNT ONE**

3 **SUPREMACY CLAUSE; 42 U.S.C. § 1983**

4 180. The foregoing allegations are repeated and incorporated as though fully set
5 forth herein.

6 181. The Supremacy Clause, Article VI, Section 2, of the U.S. Constitution
7 provides:

8 This Constitution, and the Laws of the United States which shall be made
9 in Pursuance thereof; and all Treaties made, or which shall be made, under
10 the Authority of the United States, shall be the supreme Law of the Land;
and the Judges in every State shall be bound thereby, any Thing in the
Constitution of Laws of any State to the Contrary notwithstanding.

11 182. The Supremacy Clause mandates that federal law preempts state law in any
12 area over which Congress expressly or impliedly has reserved exclusive authority or
13 which is constitutionally reserved to the federal government, or where state law conflicts
14 or interferes with federal law.

15 183. SB 1070 is void in its entirety because it attempts to bypass federal
16 immigration law and to supplant it with a state policy of “attrition through enforcement,”
17 in violation of the prohibition on state regulation of immigration.

18 184. SB 1070 conflicts with federal laws and policies, usurps powers
19 constitutionally vested in the federal government exclusively, attempts to legislate in
20 fields occupied by the federal government, imposes burdens and penalties on legal
21 residents not authorized by and contrary to federal law, and unilaterally imposes burdens
22 on the federal government’s resources and processes, each in violation of the Supremacy
23 Clause.
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COUNT TWO

EQUAL PROTECTION; 42 U.S.C. § 1983

185. The foregoing allegations are repeated and incorporated as though fully set forth herein.

186. The Fourteenth Amendment to the U.S. Constitution provides that “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

187. SB 1070 was enacted with the purpose and intent to discriminate against racial and national origin minorities, including Latinos, on the basis of race and national origin.

188. SB 1070 impermissibly and invidiously targets Plaintiffs who are racial and national origin minorities, including Latinos, residing or traveling in Arizona and subjects them to stops, detentions, questioning, and arrests because of their race and/or national origin.

189. SB 1070 impermissibly deprives Plaintiffs who are racial and national origin minorities, including Latinos, residing or traveling in Arizona of the equal protection of the laws within the meaning of the Fourteenth Amendment to the U.S. Constitution.

190. Section 3 of SB 1070 impermissibly discriminates against non-citizen Plaintiffs on the basis of alienage and deprives them of the equal protection of the laws within the meaning of the Fourteenth Amendment to the U.S. Constitution.

COUNT THREE

FIRST AMENDMENT; 42 U.S.C. § 1983

191. The foregoing allegations are repeated and incorporated as though fully set forth herein.

192. The First Amendment to the U.S. Constitution provides that “Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people peaceably

1 to assemble, and to petition the Government for a redress of grievances.” The First
2 Amendment’s guarantees are applied to the States through the Fourteenth Amendment.

3 193. Both Section 2 and Section 5 of SB 1070 are unconstitutional restrictions of
4 rights guaranteed by the First Amendment.

5
6 **COUNT FOUR**

7 **FOURTH AMENDMENT; 42 U.S.C. § 1983**

8 194. The foregoing allegations are repeated and incorporated as though fully set
9 forth herein.

10 195. The Fourth Amendment to the U.S. Constitution prohibits “unreasonable
11 searches and seizures.” The Fourth Amendment’s guarantees are applied to the States
12 through the Fourteenth Amendment.

13 196. Section 2 of SB 1070, as amended by Section 3 of HB 2162, requires that
14 officers conduct unreasonable seizures of individuals in violation of the Fourth
15 Amendment.

16 197. Sections 2 and 6 of SB 1070 provide for warrantless seizures of individuals in
17 the absence of probable cause that they have committed crimes, in violation of the Fourth
18 Amendment.

19 198. Section 2 of SB 1070 authorizes officers to detain individuals without lawful
20 authority and transport individuals into federal custody, in violation of the Fourth
21 Amendment.

22
23 **COUNT FIVE**

24 **VIOLATION OF ARTICLE II, § 8 OF THE ARIZONA CONSTITUTION**

25 199. The foregoing allegations are repeated and incorporated as though fully set
26 forth herein.

EXHIBIT INDEX

Exhibit 1.....Senate Bill 1070

Exhibit 2..... House Bill 2162

EXHIBIT 1

House Engrossed Senate Bill

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1070

AN ACT

AMENDING TITLE 11, CHAPTER 7, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 8; AMENDING TITLE 13, CHAPTER 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-1509; AMENDING SECTION 13-2319, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-2928 AND 13-2929; AMENDING SECTIONS 13-3883, 23-212, 23-212.01, 23-214 AND 28-3511, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1724; RELATING TO UNLAWFULLY PRESENT ALIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

S.B. 1070

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Intent

3 The legislature finds that there is a compelling interest in the
4 cooperative enforcement of federal immigration laws throughout all of
5 Arizona. The legislature declares that the intent of this act is to make
6 attrition through enforcement the public policy of all state and local
7 government agencies in Arizona. The provisions of this act are intended to
8 work together to discourage and deter the unlawful entry and presence of
9 aliens and economic activity by persons unlawfully present in the United
10 States.

11 Sec. 2. Title 11, chapter 7, Arizona Revised Statutes, is amended by
12 adding article 8, to read:

13 ARTICLE 8. ENFORCEMENT OF IMMIGRATION LAWS

14 11-1051. Cooperation and assistance in enforcement of
15 immigration laws; indemnification

16 A. NO OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR
17 OTHER POLITICAL SUBDIVISION OF THIS STATE MAY LIMIT OR RESTRICT THE
18 ENFORCEMENT OF FEDERAL IMMIGRATION LAWS TO LESS THAN THE FULL EXTENT
19 PERMITTED BY FEDERAL LAW.

20 B. FOR ANY LAWFUL CONTACT MADE BY A LAW ENFORCEMENT OFFICIAL OR A LAW
21 ENFORCEMENT AGENCY OF THIS STATE OR A LAW ENFORCEMENT OFFICIAL OR A LAW
22 ENFORCEMENT AGENCY OF A COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF
23 THIS STATE WHERE REASONABLE SUSPICION EXISTS THAT THE PERSON IS AN ALIEN WHO
24 IS UNLAWFULLY PRESENT IN THE UNITED STATES, A REASONABLE ATTEMPT SHALL BE
25 MADE, WHEN PRACTICABLE, TO DETERMINE THE IMMIGRATION STATUS OF THE PERSON,
26 EXCEPT IF THE DETERMINATION MAY HINDER OR OBSTRUCT AN INVESTIGATION. ANY
27 PERSON WHO IS ARRESTED SHALL HAVE THE PERSON'S IMMIGRATION STATUS DETERMINED
28 BEFORE THE PERSON IS RELEASED. THE PERSON'S IMMIGRATION STATUS SHALL BE
29 VERIFIED WITH THE FEDERAL GOVERNMENT PURSUANT TO 8 UNITED STATES CODE SECTION
30 1373(c). A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,
31 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT SOLELY
32 CONSIDER RACE, COLOR OR NATIONAL ORIGIN IN IMPLEMENTING THE REQUIREMENTS OF
33 THIS SUBSECTION EXCEPT TO THE EXTENT PERMITTED BY THE UNITED STATES OR
34 ARIZONA CONSTITUTION. A PERSON IS PRESUMED TO NOT BE AN ALIEN WHO IS
35 UNLAWFULLY PRESENT IN THE UNITED STATES IF THE PERSON PROVIDES TO THE LAW
36 ENFORCEMENT OFFICER OR AGENCY ANY OF THE FOLLOWING:

37 1. A VALID ARIZONA DRIVER LICENSE.

38 2. A VALID ARIZONA NONOPERATING IDENTIFICATION LICENSE.

39 3. A VALID TRIBAL ENROLLMENT CARD OR OTHER FORM OF TRIBAL
40 IDENTIFICATION.

41 4. IF THE ENTITY REQUIRES PROOF OF LEGAL PRESENCE IN THE UNITED STATES
42 BEFORE ISSUANCE, ANY VALID UNITED STATES FEDERAL, STATE OR LOCAL GOVERNMENT
43 ISSUED IDENTIFICATION.

S.B. 1070

1 C. IF AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES IS
2 CONVICTED OF A VIOLATION OF STATE OR LOCAL LAW, ON DISCHARGE FROM
3 IMPRISONMENT OR ON THE ASSESSMENT OF ANY MONETARY OBLIGATION THAT IS IMPOSED,
4 THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED STATES
5 CUSTOMS AND BORDER PROTECTION SHALL BE IMMEDIATELY NOTIFIED.

6 D. NOTWITHSTANDING ANY OTHER LAW, A LAW ENFORCEMENT AGENCY MAY
7 SECURELY TRANSPORT AN ALIEN WHO THE AGENCY HAS RECEIVED VERIFICATION IS
8 UNLAWFULLY PRESENT IN THE UNITED STATES AND WHO IS IN THE AGENCY'S CUSTODY TO
9 A FEDERAL FACILITY IN THIS STATE OR TO ANY OTHER POINT OF TRANSFER INTO
10 FEDERAL CUSTODY THAT IS OUTSIDE THE JURISDICTION OF THE LAW ENFORCEMENT
11 AGENCY. A LAW ENFORCEMENT AGENCY SHALL OBTAIN JUDICIAL AUTHORIZATION BEFORE
12 SECURELY TRANSPORTING AN ALIEN WHO IS UNLAWFULLY PRESENT IN THE UNITED STATES
13 TO A POINT OF TRANSFER THAT IS OUTSIDE OF THIS STATE.

14 E. EXCEPT AS PROVIDED IN FEDERAL LAW, OFFICIALS OR AGENCIES OF THIS
15 STATE AND COUNTIES, CITIES, TOWNS AND OTHER POLITICAL SUBDIVISIONS OF THIS
16 STATE MAY NOT BE PROHIBITED OR IN ANY WAY BE RESTRICTED FROM SENDING,
17 RECEIVING OR MAINTAINING INFORMATION RELATING TO THE IMMIGRATION STATUS,
18 LAWFUL OR UNLAWFUL, OF ANY INDIVIDUAL OR EXCHANGING THAT INFORMATION WITH ANY
19 OTHER FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY FOR THE FOLLOWING OFFICIAL
20 PURPOSES:

21 1. DETERMINING ELIGIBILITY FOR ANY PUBLIC BENEFIT, SERVICE OR LICENSE
22 PROVIDED BY ANY FEDERAL, STATE, LOCAL OR OTHER POLITICAL SUBDIVISION OF THIS
23 STATE.

24 2. VERIFYING ANY CLAIM OF RESIDENCE OR DOMICILE IF DETERMINATION OF
25 RESIDENCE OR DOMICILE IS REQUIRED UNDER THE LAWS OF THIS STATE OR A JUDICIAL
26 ORDER ISSUED PURSUANT TO A CIVIL OR CRIMINAL PROCEEDING IN THIS STATE.

27 3. IF THE PERSON IS AN ALIEN, DETERMINING WHETHER THE PERSON IS IN
28 COMPLIANCE WITH THE FEDERAL REGISTRATION LAWS PRESCRIBED BY TITLE II, CHAPTER
29 7 OF THE FEDERAL IMMIGRATION AND NATIONALITY ACT.

30 4. PURSUANT TO 8 UNITED STATES CODE SECTION 1373 AND 8 UNITED STATES
31 CODE SECTION 1644.

32 F. THIS SECTION DOES NOT IMPLEMENT, AUTHORIZE OR ESTABLISH AND SHALL
33 NOT BE CONSTRUED TO IMPLEMENT, AUTHORIZE OR ESTABLISH THE REAL ID ACT OF 2005
34 (P.L. 109-13, DIVISION B; 119 STAT. 302), INCLUDING THE USE OF A RADIO
35 FREQUENCY IDENTIFICATION CHIP.

36 G. A PERSON WHO IS A LEGAL RESIDENT OF THIS STATE MAY BRING AN ACTION
37 IN SUPERIOR COURT TO CHALLENGE ANY OFFICIAL OR AGENCY OF THIS STATE OR A
38 COUNTY, CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE THAT ADOPTS
39 OR IMPLEMENTS A POLICY OR PRACTICE THAT LIMITS OR RESTRICTS THE ENFORCEMENT
40 OF FEDERAL IMMIGRATION LAWS TO LESS THAN THE FULL EXTENT PERMITTED BY FEDERAL
41 LAW. IF THERE IS A JUDICIAL FINDING THAT AN ENTITY HAS VIOLATED THIS
42 SECTION, THE COURT SHALL ORDER THAT THE ENTITY PAY A CIVIL PENALTY OF NOT
43 LESS THAN ONE THOUSAND DOLLARS AND NOT MORE THAN FIVE THOUSAND DOLLARS FOR
44 EACH DAY THAT THE POLICY HAS REMAINED IN EFFECT AFTER THE FILING OF AN ACTION
45 PURSUANT TO THIS SUBSECTION.

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1 H. A COURT SHALL COLLECT THE CIVIL PENALTY PRESCRIBED IN SUBSECTION G
2 OF THIS SECTION AND REMIT THE CIVIL PENALTY TO THE STATE TREASURER FOR
3 DEPOSIT IN THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT MISSION
4 FUND ESTABLISHED BY SECTION 41-1724.

5 I. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY
6 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR
7 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON
8 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

9 J. EXCEPT IN RELATION TO MATTERS IN WHICH THE OFFICER IS ADJUDGED TO
10 HAVE ACTED IN BAD FAITH, A LAW ENFORCEMENT OFFICER IS INDEMNIFIED BY THE LAW
11 ENFORCEMENT OFFICER'S AGENCY AGAINST REASONABLE COSTS AND EXPENSES, INCLUDING
12 ATTORNEY FEES, INCURRED BY THE OFFICER IN CONNECTION WITH ANY ACTION, SUIT OR
13 PROCEEDING BROUGHT PURSUANT TO THIS SECTION IN WHICH THE OFFICER MAY BE A
14 DEFENDANT BY REASON OF THE OFFICER BEING OR HAVING BEEN A MEMBER OF THE LAW
15 ENFORCEMENT AGENCY.

16 K. THIS SECTION SHALL BE IMPLEMENTED IN A MANNER CONSISTENT WITH
17 FEDERAL LAWS REGULATING IMMIGRATION, PROTECTING THE CIVIL RIGHTS OF ALL
18 PERSONS AND RESPECTING THE PRIVILEGES AND IMMUNITIES OF UNITED STATES
19 CITIZENS.

20 Sec. 3. Title 13, chapter 15, Arizona Revised Statutes, is amended by
21 adding section 13-1509, to read:

22 13-1509. Willful failure to complete or carry an alien
23 registration document; assessment; exception;
24 authenticated records; classification

25 A. IN ADDITION TO ANY VIOLATION OF FEDERAL LAW, A PERSON IS GUILTY OF
26 WILLFUL FAILURE TO COMPLETE OR CARRY AN ALIEN REGISTRATION DOCUMENT IF THE
27 PERSON IS IN VIOLATION OF 8 UNITED STATES CODE SECTION 1304(e) OR 1306(a).

28 B. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS
29 MAY BE DETERMINED BY:

30 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL
31 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

32 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED
33 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION
34 1373(c).

35 C. A PERSON WHO IS SENTENCED PURSUANT TO THIS SECTION IS NOT ELIGIBLE
36 FOR SUSPENSION OF SENTENCE, PROBATION, PARDON, COMMUTATION OF SENTENCE, OR
37 RELEASE FROM CONFINEMENT ON ANY BASIS EXCEPT AS AUTHORIZED BY SECTION 31-233,
38 SUBSECTION A OR B UNTIL THE SENTENCE IMPOSED BY THE COURT HAS BEEN SERVED OR
39 THE PERSON IS ELIGIBLE FOR RELEASE PURSUANT TO SECTION 41-1604.07.

40 D. IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT SHALL
41 ORDER THE PERSON TO PAY JAIL COSTS AND AN ADDITIONAL ASSESSMENT IN THE
42 FOLLOWING AMOUNTS:

43 1. AT LEAST FIVE HUNDRED DOLLARS FOR A FIRST VIOLATION.

44 2. TWICE THE AMOUNT SPECIFIED IN PARAGRAPH 1 OF THIS SUBSECTION IF THE
45 PERSON WAS PREVIOUSLY SUBJECT TO AN ASSESSMENT PURSUANT TO THIS SUBSECTION.

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1 E. A COURT SHALL COLLECT THE ASSESSMENTS PRESCRIBED IN SUBSECTION D OF
2 THIS SECTION AND REMIT THE ASSESSMENTS TO THE DEPARTMENT OF PUBLIC SAFETY,
3 WHICH SHALL ESTABLISH A SPECIAL SUBACCOUNT FOR THE MONIES IN THE ACCOUNT
4 ESTABLISHED FOR THE GANG AND IMMIGRATION INTELLIGENCE TEAM ENFORCEMENT
5 MISSION APPROPRIATION. MONIES IN THE SPECIAL SUBACCOUNT ARE SUBJECT TO
6 LEGISLATIVE APPROPRIATION FOR DISTRIBUTION FOR GANG AND IMMIGRATION
7 ENFORCEMENT AND FOR COUNTY JAIL REIMBURSEMENT COSTS RELATING TO ILLEGAL
8 IMMIGRATION.

9 F. THIS SECTION DOES NOT APPLY TO A PERSON WHO MAINTAINS AUTHORIZATION
10 FROM THE FEDERAL GOVERNMENT TO REMAIN IN THE UNITED STATES.

11 G. ANY RECORD THAT RELATES TO THE IMMIGRATION STATUS OF A PERSON IS
12 ADMISSIBLE IN ANY COURT WITHOUT FURTHER FOUNDATION OR TESTIMONY FROM A
13 CUSTODIAN OF RECORDS IF THE RECORD IS CERTIFIED AS AUTHENTIC BY THE
14 GOVERNMENT AGENCY THAT IS RESPONSIBLE FOR MAINTAINING THE RECORD.

15 H. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR, EXCEPT THAT A
16 VIOLATION OF THIS SECTION IS:

17 1. A CLASS 3 FELONY IF THE PERSON VIOLATES THIS SECTION WHILE IN
18 POSSESSION OF ANY OF THE FOLLOWING:

19 (a) A DANGEROUS DRUG AS DEFINED IN SECTION 13-3401.

20 (b) PRECURSOR CHEMICALS THAT ARE USED IN THE MANUFACTURING OF
21 METHAMPHETAMINE IN VIOLATION OF SECTION 13-3404.01.

22 (c) A DEADLY WEAPON OR A DANGEROUS INSTRUMENT, AS DEFINED IN SECTION
23 13-105.

24 (d) PROPERTY THAT IS USED FOR THE PURPOSE OF COMMITTING AN ACT OF
25 TERRORISM AS PRESCRIBED IN SECTION 13-2308.01.

26 2. A CLASS 4 FELONY IF THE PERSON EITHER:

27 (a) IS CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION.

28 (b) WITHIN SIXTY MONTHS BEFORE THE VIOLATION, HAS BEEN REMOVED FROM
29 THE UNITED STATES PURSUANT TO 8 UNITED STATES CODE SECTION 1229a OR HAS
30 ACCEPTED A VOLUNTARY REMOVAL FROM THE UNITED STATES PURSUANT TO 8 UNITED
31 STATES CODE SECTION 1229c.

32 Sec. 4. Section 13-2319, Arizona Revised Statutes, is amended to read:
33 13-2319. Smuggling; classification; definitions

34 A. It is unlawful for a person to intentionally engage in the
35 smuggling of human beings for profit or commercial purpose.

36 B. A violation of this section is a class 4 felony.

37 C. Notwithstanding subsection B of this section, a violation of this
38 section:

39 1. Is a class 2 felony if the human being who is smuggled is under
40 eighteen years of age and is not accompanied by a family member over eighteen
41 years of age or the offense involved the use of a deadly weapon or dangerous
42 instrument.

43 2. Is a class 3 felony if the offense involves the use or threatened
44 use of deadly physical force and the person is not eligible for suspension of
45 sentence, probation, pardon or release from confinement on any other basis

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1 except pursuant to section 31-233, subsection A or B until the sentence
2 imposed by the court is served, the person is eligible for release pursuant
3 to section 41-1604.07 or the sentence is commuted.

4 D. Chapter 10 of this title does not apply to a violation of
5 subsection C, paragraph 1 of this section.

6 E. NOTWITHSTANDING ANY OTHER LAW, IN THE ENFORCEMENT OF THIS SECTION A
7 PEACE OFFICER MAY LAWFULLY STOP ANY PERSON WHO IS OPERATING A MOTOR VEHICLE
8 IF THE OFFICER HAS REASONABLE SUSPICION TO BELIEVE THE PERSON IS IN VIOLATION
9 OF ANY CIVIL TRAFFIC LAW.

10 ~~E.~~ F. For the purposes of this section:

11 1. "Family member" means the person's parent, grandparent, sibling or
12 any other person who is related to the person by consanguinity or affinity to
13 the second degree.

14 2. "Procurement of transportation" means any participation in or
15 facilitation of transportation and includes:

16 (a) Providing services that facilitate transportation including travel
17 arrangement services or money transmission services.

18 (b) Providing property that facilitates transportation, including a
19 weapon, a vehicle or other means of transportation or false identification,
20 or selling, leasing, renting or otherwise making available a drop house as
21 defined in section 13-2322.

22 3. "Smuggling of human beings" means the transportation, procurement
23 of transportation or use of property or real property by a person or an
24 entity that knows or has reason to know that the person or persons
25 transported or to be transported are not United States citizens, permanent
26 resident aliens or persons otherwise lawfully in this state or have attempted
27 to enter, entered or remained in the United States in violation of law.

28 Sec. 5. Title 13, chapter 29, Arizona Revised Statutes, is amended by
29 adding sections 13-2928 and 13-2929, to read:

30 13-2928. Unlawful stopping to hire and pick up passengers for
31 work; unlawful application, solicitation or
32 employment; classification; definitions

33 A. IT IS UNLAWFUL FOR AN OCCUPANT OF A MOTOR VEHICLE THAT IS STOPPED
34 ON A STREET, ROADWAY OR HIGHWAY TO ATTEMPT TO HIRE OR HIRE AND PICK UP
35 PASSENGERS FOR WORK AT A DIFFERENT LOCATION IF THE MOTOR VEHICLE BLOCKS OR
36 IMPEDES THE NORMAL MOVEMENT OF TRAFFIC.

37 B. IT IS UNLAWFUL FOR A PERSON TO ENTER A MOTOR VEHICLE THAT IS
38 STOPPED ON A STREET, ROADWAY OR HIGHWAY IN ORDER TO BE HIRED BY AN OCCUPANT
39 OF THE MOTOR VEHICLE AND TO BE TRANSPORTED TO WORK AT A DIFFERENT LOCATION IF
40 THE MOTOR VEHICLE BLOCKS OR IMPEDES THE NORMAL MOVEMENT OF TRAFFIC.

41 C. IT IS UNLAWFUL FOR A PERSON WHO IS UNLAWFULLY PRESENT IN THE UNITED
42 STATES AND WHO IS AN UNAUTHORIZED ALIEN TO KNOWINGLY APPLY FOR WORK, SOLICIT
43 WORK IN A PUBLIC PLACE OR PERFORM WORK AS AN EMPLOYEE OR INDEPENDENT
44 CONTRACTOR IN THIS STATE.

45 D. A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR.

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1 E. FOR THE PURPOSES OF THIS SECTION:

2 1. "SOLICIT" MEANS VERBAL OR NONVERBAL COMMUNICATION BY A GESTURE OR A
3 NOD THAT WOULD INDICATE TO A REASONABLE PERSON THAT A PERSON IS WILLING TO BE
4 EMPLOYED.

5 2. "UNAUTHORIZED ALIEN" MEANS AN ALIEN WHO DOES NOT HAVE THE LEGAL
6 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS
7 DESCRIBED IN 8 UNITED STATES CODE SECTION 1324a(h)(3).

8 13-2929. Unlawful transporting, moving, concealing, harboring
9 or shielding of unlawful aliens; vehicle
10 impoundment; exception; classification

11 A. IT IS UNLAWFUL FOR A PERSON WHO IS IN VIOLATION OF A CRIMINAL
12 OFFENSE TO:

13 1. TRANSPORT OR MOVE OR ATTEMPT TO TRANSPORT OR MOVE AN ALIEN IN THIS
14 STATE, IN FURTHERANCE OF THE ILLEGAL PRESENCE OF THE ALIEN IN THE UNITED
15 STATES, IN A MEANS OF TRANSPORTATION IF THE PERSON KNOWS OR RECKLESSLY
16 DISREGARDS THE FACT THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE
17 UNITED STATES IN VIOLATION OF LAW.

18 2. CONCEAL, HARBOR OR SHIELD OR ATTEMPT TO CONCEAL, HARBOR OR SHIELD
19 AN ALIEN FROM DETECTION IN ANY PLACE IN THIS STATE, INCLUDING ANY BUILDING OR
20 ANY MEANS OF TRANSPORTATION, IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE
21 FACT THAT THE ALIEN HAS COME TO, HAS ENTERED OR REMAINS IN THE UNITED STATES
22 IN VIOLATION OF LAW.

23 3. ENCOURAGE OR INDUCE AN ALIEN TO COME TO OR RESIDE IN THIS STATE IF
24 THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT SUCH COMING TO,
25 ENTERING OR RESIDING IN THIS STATE IS OR WILL BE IN VIOLATION OF LAW.

26 B. A MEANS OF TRANSPORTATION THAT IS USED IN THE COMMISSION OF A
27 VIOLATION OF THIS SECTION IS SUBJECT TO MANDATORY VEHICLE IMMOBILIZATION OR
28 IMPOUNDMENT PURSUANT TO SECTION 28-3511.

29 C. THIS SECTION DOES NOT APPLY TO A CHILD PROTECTIVE SERVICES WORKER
30 ACTING IN THE WORKER'S OFFICIAL CAPACITY OR A PERSON WHO IS ACTING IN THE
31 CAPACITY OF A FIRST RESPONDER, AN AMBULANCE ATTENDANT OR AN EMERGENCY MEDICAL
32 TECHNICIAN AND WHO IS TRANSPORTING OR MOVING AN ALIEN IN THIS STATE PURSUANT
33 TO TITLE 36, CHAPTER 21.1.

34 D. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1
35 MISDEMEANOR AND IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND DOLLARS, EXCEPT
36 THAT A VIOLATION OF THIS SECTION THAT INVOLVES TEN OR MORE ILLEGAL ALIENS IS
37 A CLASS 6 FELONY AND THE PERSON IS SUBJECT TO A FINE OF AT LEAST ONE THOUSAND
38 DOLLARS FOR EACH ALIEN WHO IS INVOLVED.

39 Sec. 6. Section 13-3883, Arizona Revised Statutes, is amended to read:
40 13-3883. Arrest by officer without warrant

41 A. A peace officer ~~may~~, without a warrant, MAY arrest a person if ~~he~~
42 THE OFFICER has probable cause to believe:

43 1. A felony has been committed and probable cause to believe the
44 person to be arrested has committed the felony.

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1 2. A misdemeanor has been committed in his THE OFFICER'S presence and
2 probable cause to believe the person to be arrested has committed the
3 offense.

4 3. The person to be arrested has been involved in a traffic accident
5 and violated any criminal section of title 28, and that such violation
6 occurred prior to or immediately following such traffic accident.

7 4. A misdemeanor or a petty offense has been committed and probable
8 cause to believe the person to be arrested has committed the offense. A
9 person arrested under this paragraph is eligible for release under section
10 13-3903.

11 5. THE PERSON TO BE ARRESTED HAS COMMITTED ANY PUBLIC OFFENSE THAT
12 MAKES THE PERSON REMOVABLE FROM THE UNITED STATES.

13 B. A peace officer may stop and detain a person as is reasonably
14 necessary to investigate an actual or suspected violation of any traffic law
15 committed in the officer's presence and may serve a copy of the traffic
16 complaint for any alleged civil or criminal traffic violation. A peace
17 officer who serves a copy of the traffic complaint shall do so within a
18 reasonable time of the alleged criminal or civil traffic violation.

19 Sec. 7. Section 23-212, Arizona Revised Statutes, is amended to read:

20 23-212. Knowingly employing unauthorized aliens; prohibition;
21 false and frivolous complaints; violation;
22 classification; license suspension and revocation;
23 affirmative defense

24 A. An employer shall not knowingly employ an unauthorized alien. If,
25 in the case when an employer uses a contract, subcontract or other
26 independent contractor agreement to obtain the labor of an alien in this
27 state, the employer knowingly contracts with an unauthorized alien or with a
28 person who employs or contracts with an unauthorized alien to perform the
29 labor, the employer violates this subsection.

30 B. The attorney general shall prescribe a complaint form for a person
31 to allege a violation of subsection A of this section. The complainant shall
32 not be required to list the complainant's social security number on the
33 complaint form or to have the complaint form notarized. On receipt of a
34 complaint on a prescribed complaint form that an employer allegedly knowingly
35 employs an unauthorized alien, the attorney general or county attorney shall
36 investigate whether the employer has violated subsection A of this section.
37 If a complaint is received but is not submitted on a prescribed complaint
38 form, the attorney general or county attorney may investigate whether the
39 employer has violated subsection A of this section. This subsection shall
40 not be construed to prohibit the filing of anonymous complaints that are not
41 submitted on a prescribed complaint form. The attorney general or county
42 attorney shall not investigate complaints that are based solely on race,
43 color or national origin. A complaint that is submitted to a county attorney
44 shall be submitted to the county attorney in the county in which the alleged
45 unauthorized alien is or was employed by the employer. The county sheriff or

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1 any other local law enforcement agency may assist in investigating a
2 complaint. When investigating a complaint, the attorney general or county
3 attorney shall verify the work authorization of the alleged unauthorized
4 alien with the federal government pursuant to 8 United States Code section
5 1373(c). A state, county or local official shall not attempt to
6 independently make a final determination on whether an alien is authorized to
7 work in the United States. An alien's immigration status or work
8 authorization status shall be verified with the federal government pursuant
9 to 8 United States Code section 1373(c). A person who knowingly files a
10 false and frivolous complaint under this subsection is guilty of a class 3
11 misdemeanor.

12 C. If, after an investigation, the attorney general or county attorney
13 determines that the complaint is not false and frivolous:

14 1. The attorney general or county attorney shall notify the United
15 States immigration and customs enforcement of the unauthorized alien.

16 2. The attorney general or county attorney shall notify the local law
17 enforcement agency of the unauthorized alien.

18 3. The attorney general shall notify the appropriate county attorney
19 to bring an action pursuant to subsection D of this section if the complaint
20 was originally filed with the attorney general.

21 D. An action for a violation of subsection A of this section shall be
22 brought against the employer by the county attorney in the county where the
23 unauthorized alien employee is or was employed by the employer. The county
24 attorney shall not bring an action against any employer for any violation of
25 subsection A of this section that occurs before January 1, 2008. A second
26 violation of this section shall be based only on an unauthorized alien who is
27 or was employed by the employer after an action has been brought for a
28 violation of subsection A of this section or section 23-212.01, subsection A.

29 E. For any action in superior court under this section, the court
30 shall expedite the action, including assigning the hearing at the earliest
31 practicable date.

32 F. On a finding of a violation of subsection A of this section:

33 1. For a first violation, as described in paragraph 3 of this
34 subsection, the court:

35 (a) Shall order the employer to terminate the employment of all
36 unauthorized aliens.

37 (b) Shall order the employer to be subject to a three year
38 probationary period for the business location where the unauthorized alien
39 performed work. During the probationary period the employer shall file
40 quarterly reports in the form provided in section 23-722.01 with the county
41 attorney of each new employee who is hired by the employer at the business
42 location where the unauthorized alien performed work.

43 (c) Shall order the employer to file a signed sworn affidavit with the
44 county attorney within three business days after the order is issued. The
45 affidavit shall state that the employer has terminated the employment of all

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1 unauthorized aliens in this state and that the employer will not
2 intentionally or knowingly employ an unauthorized alien in this state. The
3 court shall order the appropriate agencies to suspend all licenses subject to
4 this subdivision that are held by the employer if the employer fails to file
5 a signed sworn affidavit with the county attorney within three business days
6 after the order is issued. All licenses that are suspended under this
7 subdivision shall remain suspended until the employer files a signed sworn
8 affidavit with the county attorney. Notwithstanding any other law, on filing
9 of the affidavit the suspended licenses shall be reinstated immediately by
10 the appropriate agencies. For the purposes of this subdivision, the licenses
11 that are subject to suspension under this subdivision are all licenses that
12 are held by the employer specific to the business location where the
13 unauthorized alien performed work. If the employer does not hold a license
14 specific to the business location where the unauthorized alien performed
15 work, but a license is necessary to operate the employer's business in
16 general, the licenses that are subject to suspension under this subdivision
17 are all licenses that are held by the employer at the employer's primary
18 place of business. On receipt of the court's order and notwithstanding any
19 other law, the appropriate agencies shall suspend the licenses according to
20 the court's order. The court shall send a copy of the court's order to the
21 attorney general and the attorney general shall maintain the copy pursuant to
22 subsection G of this section.

23 (d) May order the appropriate agencies to suspend all licenses
24 described in subdivision (c) of this paragraph that are held by the employer
25 for not to exceed ten business days. The court shall base its decision to
26 suspend under this subdivision on any evidence or information submitted to it
27 during the action for a violation of this subsection and shall consider the
28 following factors, if relevant:

29 (i) The number of unauthorized aliens employed by the employer.

30 (ii) Any prior misconduct by the employer.

31 (iii) The degree of harm resulting from the violation.

32 (iv) Whether the employer made good faith efforts to comply with any
33 applicable requirements.

34 (v) The duration of the violation.

35 (vi) The role of the directors, officers or principals of the employer
36 in the violation.

37 (vii) Any other factors the court deems appropriate.

38 2. For a second violation, as described in paragraph 3 of this
39 subsection, the court shall order the appropriate agencies to permanently
40 revoke all licenses that are held by the employer specific to the business
41 location where the unauthorized alien performed work. If the employer does
42 not hold a license specific to the business location where the unauthorized
43 alien performed work, but a license is necessary to operate the employer's
44 business in general, the court shall order the appropriate agencies to
45 permanently revoke all licenses that are held by the employer at the

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1 employer's primary place of business. On receipt of the order and
2 notwithstanding any other law, the appropriate agencies shall immediately
3 revoke the licenses.

4 3. The violation shall be considered:

5 (a) A first violation by an employer at a business location if the
6 violation did not occur during a probationary period ordered by the court
7 under this subsection or section 23-212.01, subsection F for that employer's
8 business location.

9 (b) A second violation by an employer at a business location if the
10 violation occurred during a probationary period ordered by the court under
11 this subsection or section 23-212.01, subsection F for that employer's
12 business location.

13 G. The attorney general shall maintain copies of court orders that are
14 received pursuant to subsection F of this section and shall maintain a
15 database of the employers and business locations that have a first violation
16 of subsection A of this section and make the court orders available on the
17 attorney general's website.

18 H. On determining whether an employee is an unauthorized alien, the
19 court shall consider only the federal government's determination pursuant to
20 8 United States Code section 1373(c). The federal government's determination
21 creates a rebuttable presumption of the employee's lawful status. The court
22 may take judicial notice of the federal government's determination and may
23 request the federal government to provide automated or testimonial
24 verification pursuant to 8 United States Code section 1373(c).

25 I. For the purposes of this section, proof of verifying the employment
26 authorization of an employee through the e-verify program creates a
27 rebuttable presumption that an employer did not knowingly employ an
28 unauthorized alien.

29 J. For the purposes of this section, an employer that establishes that
30 it has complied in good faith with the requirements of 8 United States Code
31 section 1324a(b) establishes an affirmative defense that the employer did not
32 knowingly employ an unauthorized alien. An employer is considered to have
33 complied with the requirements of 8 United States Code section 1324a(b),
34 notwithstanding an isolated, sporadic or accidental technical or procedural
35 failure to meet the requirements, if there is a good faith attempt to comply
36 with the requirements.

37 K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS
38 SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE EMPLOYER
39 MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE SUBSTANTIAL
40 ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT DEFENSE HAS
41 THE BURDEN OF PROVING THE FOLLOWING BY A PREPONDERANCE OF THE EVIDENCE:

42 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT
43 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

44 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE
45 EMPLOYER TO COMMIT THE VIOLATION.

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1 3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE
2 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO
3 COMMIT THE VIOLATION.

4 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS
5 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT
6 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO
7 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR
8 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT
9 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING
10 IF AN EMPLOYER HAS PROVEN ENTRAPMENT.

11 Sec. 8. Section 23-212.01, Arizona Revised Statutes, is amended to
12 read:

13 23-212.01. Intentionally employing unauthorized aliens;
14 prohibition; false and frivolous complaints;
15 violation; classification; license suspension and
16 revocation; affirmative defense

17 A. An employer shall not intentionally employ an unauthorized alien.
18 If, in the case when an employer uses a contract, subcontract or other
19 independent contractor agreement to obtain the labor of an alien in this
20 state, the employer intentionally contracts with an unauthorized alien or
21 with a person who employs or contracts with an unauthorized alien to perform
22 the labor, the employer violates this subsection.

23 B. The attorney general shall prescribe a complaint form for a person
24 to allege a violation of subsection A of this section. The complainant shall
25 not be required to list the complainant's social security number on the
26 complaint form or to have the complaint form notarized. On receipt of a
27 complaint on a prescribed complaint form that an employer allegedly
28 intentionally employs an unauthorized alien, the attorney general or county
29 attorney shall investigate whether the employer has violated subsection A of
30 this section. If a complaint is received but is not submitted on a
31 prescribed complaint form, the attorney general or county attorney may
32 investigate whether the employer has violated subsection A of this section.
33 This subsection shall not be construed to prohibit the filing of anonymous
34 complaints that are not submitted on a prescribed complaint form. The
35 attorney general or county attorney shall not investigate complaints that are
36 based solely on race, color or national origin. A complaint that is
37 submitted to a county attorney shall be submitted to the county attorney in
38 the county in which the alleged unauthorized alien is or was employed by the
39 employer. The county sheriff or any other local law enforcement agency may
40 assist in investigating a complaint. When investigating a complaint, the
41 attorney general or county attorney shall verify the work authorization of
42 the alleged unauthorized alien with the federal government pursuant to
43 8 United States Code section 1373(c). A state, county or local official
44 shall not attempt to independently make a final determination on whether an
45 alien is authorized to work in the United States. An alien's immigration

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1 status or work authorization status shall be verified with the federal
2 government pursuant to 8 United States Code section 1373(c). A person who
3 knowingly files a false and frivolous complaint under this subsection is
4 guilty of a class 3 misdemeanor.

5 C. If, after an investigation, the attorney general or county attorney
6 determines that the complaint is not false and frivolous:

7 1. The attorney general or county attorney shall notify the United
8 States immigration and customs enforcement of the unauthorized alien.

9 2. The attorney general or county attorney shall notify the local law
10 enforcement agency of the unauthorized alien.

11 3. The attorney general shall notify the appropriate county attorney
12 to bring an action pursuant to subsection D of this section if the complaint
13 was originally filed with the attorney general.

14 D. An action for a violation of subsection A of this section shall be
15 brought against the employer by the county attorney in the county where the
16 unauthorized alien employee is or was employed by the employer. The county
17 attorney shall not bring an action against any employer for any violation of
18 subsection A of this section that occurs before January 1, 2008. A second
19 violation of this section shall be based only on an unauthorized alien who is
20 or was employed by the employer after an action has been brought for a
21 violation of subsection A of this section or section 23-212, subsection A.

22 E. For any action in superior court under this section, the court
23 shall expedite the action, including assigning the hearing at the earliest
24 practicable date.

25 F. On a finding of a violation of subsection A of this section:

26 1. For a first violation, as described in paragraph 3 of this
27 subsection, the court shall:

28 (a) Order the employer to terminate the employment of all unauthorized
29 aliens.

30 (b) Order the employer to be subject to a five year probationary
31 period for the business location where the unauthorized alien performed work.
32 During the probationary period the employer shall file quarterly reports in
33 the form provided in section 23-722.01 with the county attorney of each new
34 employee who is hired by the employer at the business location where the
35 unauthorized alien performed work.

36 (c) Order the appropriate agencies to suspend all licenses described
37 in subdivision (d) of this paragraph that are held by the employer for a
38 minimum of ten days. The court shall base its decision on the length of the
39 suspension under this subdivision on any evidence or information submitted to
40 it during the action for a violation of this subsection and shall consider
41 the following factors, if relevant:

42 (i) The number of unauthorized aliens employed by the employer.

43 (ii) Any prior misconduct by the employer.

44 (iii) The degree of harm resulting from the violation.

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1 (iv) Whether the employer made good faith efforts to comply with any
2 applicable requirements.

3 (v) The duration of the violation.

4 (vi) The role of the directors, officers or principals of the employer
5 in the violation.

6 (vii) Any other factors the court deems appropriate.

7 (d) Order the employer to file a signed sworn affidavit with the
8 county attorney. The affidavit shall state that the employer has terminated
9 the employment of all unauthorized aliens in this state and that the employer
10 will not intentionally or knowingly employ an unauthorized alien in this
11 state.. The court shall order the appropriate agencies to suspend all
12 licenses subject to this subdivision that are held by the employer if the
13 employer fails to file a signed sworn affidavit with the county attorney
14 within three business days after the order is issued. All licenses that are
15 suspended under this subdivision for failing to file a signed sworn affidavit
16 shall remain suspended until the employer files a signed sworn affidavit with
17 the county attorney. For the purposes of this subdivision, the licenses that
18 are subject to suspension under this subdivision are all licenses that are
19 held by the employer specific to the business location where the unauthorized
20 alien performed work. If the employer does not hold a license specific to
21 the business location where the unauthorized alien performed work, but a
22 license is necessary to operate the employer's business in general, the
23 licenses that are subject to suspension under this subdivision are all
24 licenses that are held by the employer at the employer's primary place of
25 business. On receipt of the court's order and notwithstanding any other law,
26 the appropriate agencies shall suspend the licenses according to the court's
27 order. The court shall send a copy of the court's order to the attorney
28 general and the attorney general shall maintain the copy pursuant to
29 subsection G of this section.

30 2. For a second violation, as described in paragraph 3 of this
31 subsection, the court shall order the appropriate agencies to permanently
32 revoke all licenses that are held by the employer specific to the business
33 location where the unauthorized alien performed work. If the employer does
34 not hold a license specific to the business location where the unauthorized
35 alien performed work, but a license is necessary to operate the employer's
36 business in general, the court shall order the appropriate agencies to
37 permanently revoke all licenses that are held by the employer at the
38 employer's primary place of business. On receipt of the order and
39 notwithstanding any other law, the appropriate agencies shall immediately
40 revoke the licenses.

41 3. The violation shall be considered:

42 (a) A first violation by an employer at a business location if the
43 violation did not occur during a probationary period ordered by the court
44 under this subsection or section 23-212, subsection F for that employer's
45 business location.

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1 (b) A second violation by an employer at a business location if the
2 violation occurred during a probationary period ordered by the court under
3 this subsection or section 23-212, subsection F for that employer's business
4 location.

5 G. The attorney general shall maintain copies of court orders that are
6 received pursuant to subsection F of this section and shall maintain a
7 database of the employers and business locations that have a first violation
8 of subsection A of this section and make the court orders available on the
9 attorney general's website.

10 H. On determining whether an employee is an unauthorized alien, the
11 court shall consider only the federal government's determination pursuant to
12 8 United States Code section 1373(c). The federal government's determination
13 creates a rebuttable presumption of the employee's lawful status. The court
14 may take judicial notice of the federal government's determination and may
15 request the federal government to provide automated or testimonial
16 verification pursuant to 8 United States Code section 1373(c).

17 I. For the purposes of this section, proof of verifying the employment
18 authorization of an employee through the e-verify program creates a
19 rebuttable presumption that an employer did not intentionally employ an
20 unauthorized alien.

21 J. For the purposes of this section, an employer that establishes that
22 it has complied in good faith with the requirements of 8 United States Code
23 section 1324a(b) establishes an affirmative defense that the employer did not
24 intentionally employ an unauthorized alien. An employer is considered to
25 have complied with the requirements of 8 United States Code section 1324a(b),
26 notwithstanding an isolated, sporadic or accidental technical or procedural
27 failure to meet the requirements, if there is a good faith attempt to comply
28 with the requirements.

29 K. IT IS AN AFFIRMATIVE DEFENSE TO A VIOLATION OF SUBSECTION A OF THIS
30 SECTION THAT THE EMPLOYER WAS ENTRAPPED. TO CLAIM ENTRAPMENT, THE EMPLOYER
31 MUST ADMIT BY THE EMPLOYER'S TESTIMONY OR OTHER EVIDENCE THE SUBSTANTIAL
32 ELEMENTS OF THE VIOLATION. AN EMPLOYER WHO ASSERTS AN ENTRAPMENT DEFENSE HAS
33 THE BURDEN OF PROVING THE FOLLOWING BY A PREPONDERANCE OF THE EVIDENCE:

34 1. THE IDEA OF COMMITTING THE VIOLATION STARTED WITH LAW ENFORCEMENT
35 OFFICERS OR THEIR AGENTS RATHER THAN WITH THE EMPLOYER.

36 2. THE LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE
37 EMPLOYER TO COMMIT THE VIOLATION.

38 3. THE EMPLOYER WAS NOT PREDISPOSED TO COMMIT THE VIOLATION BEFORE THE
39 LAW ENFORCEMENT OFFICERS OR THEIR AGENTS URGED AND INDUCED THE EMPLOYER TO
40 COMMIT THE VIOLATION.

41 L. AN EMPLOYER DOES NOT ESTABLISH ENTRAPMENT IF THE EMPLOYER WAS
42 PREDISPOSED TO VIOLATE SUBSECTION A OF THIS SECTION AND THE LAW ENFORCEMENT
43 OFFICERS OR THEIR AGENTS MERELY PROVIDED THE EMPLOYER WITH AN OPPORTUNITY TO
44 COMMIT THE VIOLATION. IT IS NOT ENTRAPMENT FOR LAW ENFORCEMENT OFFICERS OR
45 THEIR AGENTS MERELY TO USE A RUSE OR TO CONCEAL THEIR IDENTITY. THE CONDUCT

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1 OF LAW ENFORCEMENT OFFICERS AND THEIR AGENTS MAY BE CONSIDERED IN DETERMINING
2 IF AN EMPLOYER HAS PROVEN ENTRAPMENT.

3 Sec. 9. Section 23-214, Arizona Revised Statutes, is amended to read:

4 23-214. Verification of employment eligibility; e-verify
5 program; economic development incentives; list of
6 registered employers

7 A. After December 31, 2007, every employer, after hiring an employee,
8 shall verify the employment eligibility of the employee through the e-verify
9 program AND SHALL KEEP A RECORD OF THE VERIFICATION FOR THE DURATION OF THE
10 EMPLOYEE'S EMPLOYMENT OR AT LEAST THREE YEARS, WHICHEVER IS LONGER.

11 B. In addition to any other requirement for an employer to receive an
12 economic development incentive from a government entity, the employer shall
13 register with and participate in the e-verify program. Before receiving the
14 economic development incentive, the employer shall provide proof to the
15 government entity that the employer is registered with and is participating
16 in the e-verify program. If the government entity determines that the
17 employer is not complying with this subsection, the government entity shall
18 notify the employer by certified mail of the government entity's
19 determination of noncompliance and the employer's right to appeal the
20 determination. On a final determination of noncompliance, the employer shall
21 repay all monies received as an economic development incentive to the
22 government entity within thirty days of the final determination. For the
23 purposes of this subsection:

24 1. "Economic development incentive" means any grant, loan or
25 performance-based incentive from any government entity that is awarded after
26 September 30, 2008. Economic development incentive does not include any tax
27 provision under title 42 or 43.

28 2. "Government entity" means this state and any political subdivision
29 of this state that receives and uses tax revenues.

30 C. Every three months the attorney general shall request from the
31 United States department of homeland security a list of employers from this
32 state that are registered with the e-verify program. On receipt of the list
33 of employers, the attorney general shall make the list available on the
34 attorney general's website.

35 Sec. 10. Section 28-3511, Arizona Revised Statutes, is amended to
36 read:

37 28-3511. Removal and immobilization or impoundment of vehicle

38 A. A peace officer shall cause the removal and either immobilization
39 or impoundment of a vehicle if the peace officer determines that a person is
40 driving the vehicle while any of the following applies:

41 1. The person's driving privilege is suspended or revoked for any
42 reason.

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1 2. The person has not ever been issued a valid driver license or
2 permit by this state and the person does not produce evidence of ever having
3 a valid driver license or permit issued by another jurisdiction. This
4 paragraph does not apply to the operation of an implement of husbandry.

5 3. The person is subject to an ignition interlock device requirement
6 pursuant to chapter 4 of this title and the person is operating a vehicle
7 without a functioning certified ignition interlock device. This paragraph
8 does not apply to a person operating an employer's vehicle or the operation
9 of a vehicle due to a substantial emergency as defined in section 28-1464.

10 4. IN FURTHERANCE OF THE ILLEGAL PRESENCE OF AN ALIEN IN THE UNITED
11 STATES AND IN VIOLATION OF A CRIMINAL OFFENSE, THE PERSON IS TRANSPORTING OR
12 MOVING OR ATTEMPTING TO TRANSPORT OR MOVE AN ALIEN IN THIS STATE IN A VEHICLE
13 IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT THE ALIEN HAS COME
14 TO, HAS ENTERED OR REMAINS IN THE UNITED STATES IN VIOLATION OF LAW.

15 5. THE PERSON IS CONCEALING, HARBORING OR SHIELDING OR ATTEMPTING TO
16 CONCEAL, HARBOR OR SHIELD FROM DETECTION AN ALIEN IN THIS STATE IN A VEHICLE
17 IF THE PERSON KNOWS OR RECKLESSLY DISREGARDS THE FACT THAT THE ALIEN HAS COME
18 TO, ENTERED OR REMAINS IN THE UNITED STATES IN VIOLATION OF LAW.

19 B. A peace officer shall cause the removal and impoundment of a
20 vehicle if the peace officer determines that a person is driving the vehicle
21 and if all of the following apply:

22 1. The person's driving privilege is canceled, suspended or revoked
23 for any reason or the person has not ever been issued a driver license or
24 permit by this state and the person does not produce evidence of ever having
25 a driver license or permit issued by another jurisdiction.

26 2. The person is not in compliance with the financial responsibility
27 requirements of chapter 9, article 4 of this title.

28 3. The person is driving a vehicle that is involved in an accident
29 that results in either property damage or injury to or death of another
30 person.

31 C. Except as provided in subsection D of this section, while a peace
32 officer has control of the vehicle the peace officer shall cause the removal
33 and either immobilization or impoundment of the vehicle if the peace officer
34 has probable cause to arrest the driver of the vehicle for a violation of
35 section 4-244, paragraph 34 or section 28-1382 or 28-1383.

36 D. A peace officer shall not cause the removal and either the
37 immobilization or impoundment of a vehicle pursuant to subsection C of this
38 section if all of the following apply:

39 1. The peace officer determines that the vehicle is currently
40 registered and that the driver or the vehicle is in compliance with the
41 financial responsibility requirements of chapter 9, article 4 of this title.

42 2. The spouse of the driver is with the driver at the time of the
43 arrest.

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1 D. Nothing in this act shall implement or shall be construed or
2 interpreted to implement or establish the REAL ID act of 2005 (P.L. 109-13,
3 division B; 119 Stat. 302) including the use of a radio frequency
4 identification chip.

5 Sec. 13. Short title

6 This act may be cited as the "Support Our Law Enforcement and Safe
7 Neighborhoods Act".

EXHIBIT 2

Conference Engrossed

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2162

AN ACT

AMENDING SECTIONS 1-501 AND 1-502, ARIZONA REVISED STATUTES; AMENDING SECTION 11-1051, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 2, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-1509, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 3, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2928, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTION 13-2929, ARIZONA REVISED STATUTES, AS ADDED BY SENATE BILL 1070, SECTION 5, FORTY-NINTH LEGISLATURE, SECOND REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO IMMIGRATION AND BORDER SECURITY; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 1-501, Arizona Revised Statutes, is amended to
3 read:

4 1-501. Eligibility for federal public benefits; documentation;
5 violation; classification; citizen suits; attorney
6 fees; definition

7 A. Notwithstanding any other state law and to the extent permitted by
8 federal law, any NATURAL person who applies for a federal public benefit that
9 is administered by this state or a political subdivision of this state and
10 that requires participants to be citizens of the United States, legal
11 residents of the United States or otherwise lawfully present in the United
12 States shall submit at least one of the following documents to the entity
13 that administers the federal public benefit demonstrating lawful presence in
14 the United States:

15 1. An Arizona driver license issued after 1996 or an Arizona
16 nonoperating identification license.

17 2. A birth certificate or delayed birth certificate issued in any
18 state, territory or possession of the United States.

19 3. A United States certificate of birth abroad.

20 4. A United States passport.

21 5. A foreign passport with a United States visa.

22 6. An I-94 form with a photograph.

23 7. A United States citizenship and immigration services employment
24 authorization document or refugee travel document.

25 8. A United States certificate of naturalization.

26 9. A United States certificate of citizenship.

27 10. A tribal certificate of Indian blood.

28 11. A tribal or bureau of Indian affairs affidavit of birth.

29 B. For the purposes of administering the Arizona health care cost
30 containment system, documentation of citizenship and legal residence shall
31 conform with the requirements of title XIX of the social security act.

32 C. To the extent permitted by federal law, an agency of this state or
33 political subdivision of this state may allow tribal members, the elderly and
34 persons with disabilities or incapacity of the mind or body to provide
35 documentation as specified in section 6036 of the federal deficit reduction
36 act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu
37 of the documentation required by this section.

38 D. Any person who applies for federal public benefits shall sign a
39 sworn affidavit stating that the documents presented pursuant to subsection A
40 OF THIS SECTION are true under penalty of perjury.

41 E. Failure to report discovered violations of federal immigration law
42 by an employee of an agency of this state or a political subdivision of this
43 state that administers any federal public benefit is a class 2 misdemeanor.
44 If that employee's supervisor knew of the failure to report and failed to

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1 direct the employee to make the report, the supervisor is guilty of a class 2
2 misdemeanor.

3 F. This section shall be enforced without regard to race, color,
4 religion, sex, age, disability or national origin.

5 G. Any person who is a resident of this state has standing in any
6 court of record to bring suit against any agent or agency of this state or
7 its political subdivisions to remedy any violation of any provision of this
8 section, including an action for mandamus. Courts shall give preference to
9 actions brought under this section over other civil actions or proceedings
10 pending in the court.

11 H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY
12 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR
13 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON
14 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

15 ~~H-~~ I. For the purposes of this section, "federal public benefit" has
16 the same meaning prescribed in 8 United States Code section 1611.

17 Sec. 2. Section 1-502, Arizona Revised Statutes, is amended to read:

18 1-502. Eligibility for state or local public benefits;
19 documentation; violation; classification; citizen
20 suits; attorney fees; definition

21 A. Notwithstanding any other state law and to the extent permitted by
22 federal law, any agency of this state or a political subdivision of this
23 state that administers any state or local public benefit shall require each
24 NATURAL person who applies for the state or local public benefit to submit at
25 least one of the following documents to the entity that administers the state
26 or local public benefit demonstrating lawful presence in the United States:

27 1. An Arizona driver license issued after 1996 or an Arizona
28 nonoperating identification license.

29 2. A birth certificate or delayed birth certificate issued in any
30 state, territory or possession of the United States.

31 3. A United States certificate of birth abroad.

32 4. A United States passport.

33 5. A foreign passport with a United States visa.

34 6. An I-94 form with a photograph.

35 7. A United States citizenship and immigration services employment
36 authorization document or refugee travel document.

37 8. A United States certificate of naturalization.

38 9. A United States certificate of citizenship.

39 10. A tribal certificate of Indian blood.

40 11. A tribal or bureau of Indian affairs affidavit of birth.

41 B. For the purposes of administering the Arizona health care cost
42 containment system, documentation of citizenship and legal residence shall
43 conform with the requirements of title XIX of the social security act.

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1 C. To the extent permitted by federal law, an agency of this state or
2 political subdivision of this state may allow tribal members, the elderly and
3 persons with disabilities or incapacity of the mind or body to provide
4 documentation as specified in section 6036 of the federal deficit reduction
5 act of 2005 (P.L. 109-171; 120 Stat. 81) and related federal guidance in lieu
6 of the documentation required by this section.

7 D. Any person who applies for state or local public benefits shall
8 sign a sworn affidavit stating that the documents presented pursuant to
9 subsection A OF THIS SECTION are true under penalty of perjury.

10 E. Failure to report discovered violations of federal immigration law
11 by an employee of an agency of this state or a political subdivision of this
12 state that administers any state or local public benefit is a class 2
13 misdemeanor. If that employee's supervisor knew of the failure to report and
14 failed to direct the employee to make the report, the supervisor is guilty of
15 a class 2 misdemeanor.

16 F. This section shall be enforced without regard to race, color,
17 religion, sex, age, disability or national origin.

18 G. Any person who is a resident of this state has standing in any
19 court of record to bring suit against any agent or agency of this state or
20 its political subdivisions to remedy any violation of any provision of this
21 section, including an action for mandamus. Courts shall give preference to
22 actions brought under this section over other civil actions or proceedings
23 pending in the court.

24 H. THE COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO ANY
25 PERSON OR ANY OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY, CITY, TOWN OR
26 OTHER POLITICAL SUBDIVISION OF THIS STATE THAT PREVAILS BY AN ADJUDICATION ON
27 THE MERITS IN A PROCEEDING BROUGHT PURSUANT TO THIS SECTION.

28 ~~H.~~ I. For the purposes of this section, "state or local public
29 benefit" has the same meaning prescribed in 8 United States Code section
30 1621, except that it does not include commercial or professional licenses, ~~or~~
31 benefits provided by the public retirement systems and plans of this state OR
32 SERVICES WIDELY AVAILABLE TO THE GENERAL POPULATION AS A WHOLE.

33 Sec. 3. Section 11-1051, Arizona Revised Statutes, as added by Senate
34 Bill 1070, section 2, forty-ninth legislature, second regular session, as
35 transmitted to the governor, is amended to read:

36 11-1051. Cooperation and assistance in enforcement of
37 immigration laws; indemnification

38 A. No official or agency of this state or a county, city, town or
39 other political subdivision of this state may limit or restrict the
40 enforcement of federal immigration laws to less than the full extent
41 permitted by federal law.

42 B. For any lawful ~~contact~~ STOP, DETENTION OR ARREST made by a law
43 enforcement official or a law enforcement agency of this state or a law
44 enforcement official or a law enforcement agency of a county, city, town or
45 other political subdivision of this state IN THE ENFORCEMENT OF ANY OTHER LAW

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1 OR ORDINANCE OF A COUNTY, CITY OR TOWN OR THIS STATE where reasonable
2 suspicion exists that the person is an alien ~~who~~ AND is unlawfully present in
3 the United States, a reasonable attempt shall be made, when practicable, to
4 determine the immigration status of the person, except if the determination
5 may hinder or obstruct an investigation. Any person who is arrested shall
6 have the person's immigration status determined before the person is
7 released. The person's immigration status shall be verified with the federal
8 government pursuant to 8 United States code section 1373(c). A law
9 enforcement official or agency of this state or a county, city, town or other
10 political subdivision of this state may not ~~solely~~ consider race, color or
11 national origin in implementing the requirements of this subsection except to
12 the extent permitted by the United States or Arizona Constitution. A person
13 is presumed to not be an alien who is unlawfully present in the United States
14 if the person provides to the law enforcement officer or agency any of the
15 following:

16 1. A valid Arizona driver license.
17 2. A valid Arizona nonoperating identification license.
18 3. A valid tribal enrollment card or other form of tribal
19 identification.

20 4. If the entity requires proof of legal presence in the United States
21 before issuance, any valid United States federal, state or local government
22 issued identification.

23 C. If an alien who is unlawfully present in the United States is
24 convicted of a violation of state or local law, on discharge from
25 imprisonment or on the assessment of any monetary obligation that is imposed,
26 the United States immigration and customs enforcement or the United States
27 customs and border protection shall be immediately notified.

28 D. Notwithstanding any other law, a law enforcement agency may
29 securely transport an alien who the agency has received verification is
30 unlawfully present in the united states and who is in the agency's custody to
31 a federal facility in this state or to any other point of transfer into
32 federal custody that is outside the jurisdiction of the law enforcement
33 agency. A law enforcement agency shall obtain judicial authorization before
34 securely transporting an alien who is unlawfully present in the United States
35 to a point of transfer that is outside of this state.

36 E. IN THE IMPLEMENTATION OF THIS SECTION, AN ALIEN'S IMMIGRATION
37 STATUS MAY BE DETERMINED BY:

38 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL
39 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

40 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED
41 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION
42 1373(c).

43 ~~E~~ F. Except as provided in federal law, officials or agencies of
44 this state and counties, cities, towns and other political subdivisions of
45 this state may not be prohibited or in any way be restricted from sending,

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1 receiving or maintaining information relating to the immigration status,
2 lawful or unlawful, of any individual or exchanging that information with any
3 other federal, state or local governmental entity for the following official
4 purposes:

5 1. Determining eligibility for any public benefit, service or license
6 provided by any federal, state, local or other political subdivision of this
7 state.

8 2. Verifying any claim of residence or domicile if determination of
9 residence or domicile is required under the laws of this state or a judicial
10 order issued pursuant to a civil or criminal proceeding in this state.

11 3. If the person is an alien, determining whether the person is in
12 compliance with the federal registration laws prescribed by title II, chapter
13 7 of the federal immigration and Nationality act.

14 4. Pursuant to 8 United States Code section 1373 and 8 United States
15 Code section 1644.

16 ~~F.~~ G. This section does not implement, authorize or establish and
17 shall not be construed to implement, authorize or establish the REAL ID act
18 of 2005 (P.L. 109-13, division B; 119 Stat. 302), including the use of a
19 radio frequency identification chip.

20 ~~G.~~ H. A person who is a legal resident of this state may bring an
21 action in superior court to challenge any official or agency of this state or
22 a county, city, town or other political subdivision of this state that adopts
23 or implements a policy ~~or practice~~ that limits or restricts the enforcement
24 of federal immigration laws, INCLUDING 8 UNITED STATES CODE SECTIONS 1373 AND
25 1644, to less than the full extent permitted by federal law. If there is a
26 judicial finding that an entity has violated this section, the court shall
27 order that the entity pay a civil penalty of not less than ~~one thousand~~ FIVE
28 HUNDRED dollars and not more than five thousand dollars for each day that the
29 policy has remained in effect after the filing of an action pursuant to this
30 subsection.

31 ~~H.~~ I. A court shall collect the civil penalty prescribed in
32 subsection ~~G~~ H of this section and remit the civil penalty to the state
33 treasurer for deposit in the gang and immigration intelligence team
34 enforcement mission fund established by section 41-1724.

35 ~~I.~~ J. The court may award court costs and reasonable attorney fees to
36 any person or any official or agency of this state or a county, city, town or
37 other political subdivision of this state that prevails by an adjudication on
38 the merits in a proceeding brought pursuant to this section.

39 ~~J.~~ K. Except in relation to matters in which the officer is adjudged
40 to have acted in bad faith, a law enforcement officer is indemnified by the
41 law enforcement officer's agency against reasonable costs and expenses,
42 including attorney fees, incurred by the officer in connection with any
43 action, suit or proceeding brought pursuant to this section in which the
44 officer may be a defendant by reason of the officer being or having been a
45 member of the law enforcement agency.

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1 F. This section does not apply to a person who maintains authorization
2 from the federal government to remain in the United States.

3 G. Any record that relates to the immigration status of a person is
4 admissible in any court without further foundation or testimony from a
5 custodian of records if the record is certified as authentic by the
6 government agency that is responsible for maintaining the record.

7 H. A violation of this section is a class 1 misdemeanor, except that
8 THE MAXIMUM FINE IS ONE HUNDRED DOLLARS AND FOR a FIRST violation of this
9 section ~~is~~ THE COURT SHALL NOT SENTENCE THE PERSON TO MORE THAN TWENTY DAYS
10 IN JAIL AND FOR A SECOND OR SUBSEQUENT VIOLATION THE COURT SHALL NOT SENTENCE
11 THE PERSON TO MORE THAN THIRTY DAYS IN JAIL.

12 ~~1. A class 3 felony if the person violates this section while in~~
13 ~~possession of any of the following:~~

14 ~~(a) A dangerous drug as defined in section 13-3401.~~

15 ~~(b) Precursor chemicals that are used in the manufacturing of~~
16 ~~methamphetamine in violation of section 13-3404.01.~~

17 ~~(c) A deadly weapon or a dangerous instrument, as defined in section~~
18 ~~13-105.~~

19 ~~(d) Property that is used for the purpose of committing an act of~~
20 ~~terrorism as prescribed in section 13-2308.01.~~

21 ~~2. A class 4 felony if the person either:~~

22 ~~(a) Is convicted of a second or subsequent violation of this section.~~

23 ~~(b) Within sixty months before the violation, has been removed from~~
24 ~~the United States pursuant to 8 United States Code section 1229a or has~~
25 ~~accepted a voluntary removal from the United States pursuant to 8 United~~
26 ~~States Code section 1229c.~~

27 Sec. 5. Section 13-2928, Arizona Revised Statutes, as added by Senate
28 Bill 1070, section 5, forty-ninth legislature, second regular session, as
29 transmitted to the governor, is amended to read:

30 13-2928. Unlawful stopping to hire and pick up passengers for
31 work; unlawful application, solicitation or
32 employment; classification; definitions

33 A. It is unlawful for an occupant of a motor vehicle that is stopped
34 on a street, roadway or highway to attempt to hire or hire and pick up
35 passengers for work at a different location if the motor vehicle blocks or
36 impedes the normal movement of traffic.

37 B. It is unlawful for a person to enter a motor vehicle that is
38 stopped on a street, roadway or highway in order to be hired by an occupant
39 of the motor vehicle and to be transported to work at a different location if
40 the motor vehicle blocks or impedes the normal movement of traffic.

41 C. It is unlawful for a person who is unlawfully present in the United
42 States and who is an unauthorized alien to knowingly apply for work, solicit
43 work in a public place or perform work as an employee or independent
44 contractor in this state.

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1 D. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,
2 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER
3 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO
4 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

5 E. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS
6 MAY BE DETERMINED BY:

7 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL
8 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

9 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED
10 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION
11 1373(c).

12 ~~D.~~ F. A violation of this section is a class 1 misdemeanor.

13 ~~E.~~ G. For the purposes of this section:

14 1. "Solicit" means verbal or nonverbal communication by a gesture or a
15 nod that would indicate to a reasonable person that a person is willing to be
16 employed.

17 2. "Unauthorized alien" means an alien who does not have the legal
18 right or authorization under federal law to work in the United States as
19 described in 8 United States Code section 1324a(h)(3).

20 Sec. 6. Section 13-2929, Arizona Revised Statutes, as added by Senate
21 Bill 1070, section 5, forty-ninth legislature, second regular session, as
22 transmitted to the governor, is amended to read:

23 13-2929. Unlawful transporting, moving, concealing, harboring
24 or shielding of unlawful aliens; vehicle
25 impoundment; exception; classification

26 A. It is unlawful for a person who is in violation of a criminal
27 offense to:

28 1. Transport or move or attempt to transport or move an alien in this
29 state, in furtherance of the illegal presence of the alien in the United
30 States, in a means of transportation if the person knows or recklessly
31 disregards the fact that the alien has come to, has entered or remains in the
32 United States in violation of law.

33 2. Conceal, harbor or shield or attempt to conceal, harbor or shield
34 an alien from detection in any place in this state, including any building or
35 any means of transportation, if the person knows or recklessly disregards the
36 fact that the alien has come to, has entered or remains in the United States
37 in violation of law.

38 3. Encourage or induce an alien to come to or reside in this state if
39 the person knows or recklessly disregards the fact that such coming to,
40 entering or residing in this state is or will be in violation of law.

41 B. A means of transportation that is used in the commission of a
42 violation of this section is subject to mandatory vehicle immobilization or
43 impoundment pursuant to section 28-3511.

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1 C. A LAW ENFORCEMENT OFFICIAL OR AGENCY OF THIS STATE OR A COUNTY,
2 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE MAY NOT CONSIDER
3 RACE, COLOR OR NATIONAL ORIGIN IN THE ENFORCEMENT OF THIS SECTION EXCEPT TO
4 THE EXTENT PERMITTED BY THE UNITED STATES OR ARIZONA CONSTITUTION.

5 D. IN THE ENFORCEMENT OF THIS SECTION, AN ALIEN'S IMMIGRATION STATUS
6 MAY BE DETERMINED BY:

7 1. A LAW ENFORCEMENT OFFICER WHO IS AUTHORIZED BY THE FEDERAL
8 GOVERNMENT TO VERIFY OR ASCERTAIN AN ALIEN'S IMMIGRATION STATUS.

9 2. THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OR THE UNITED
10 STATES CUSTOMS AND BORDER PROTECTION PURSUANT TO 8 UNITED STATES CODE SECTION
11 1373(c).

12 ~~E.~~ E. This section does not apply to a child protective services
13 worker acting in the worker's official capacity or a person who is acting in
14 the capacity of a first responder, an ambulance attendant or an emergency
15 medical technician and who is transporting or moving an alien in this state
16 pursuant to title 36, chapter 21.1.

17 ~~F.~~ F. A person who violates this section is guilty of a class 1
18 misdemeanor and is subject to a fine of at least one thousand dollars, except
19 that a violation of this section that involves ten or more illegal aliens is
20 a class 6 felony and the person is subject to a fine of at least one thousand
21 dollars for each alien who is involved.

22 Sec. 7. Joint border security advisory committee; membership;
23 duties; report; delayed repeal

24 A. The joint border security advisory committee is established
25 consisting of the following members:

26 1. The president of the senate or the president's designee.

27 2. The speaker of the house of representatives or the speaker's
28 designee.

29 3. Two members of the house of representatives who are appointed by
30 the speaker of the house of representatives.

31 4. Two members of the senate who are appointed by the president of the
32 senate.

33 5. Six members who are appointed by the governor.

34 B. Committee members are not eligible to receive compensation for
35 committee activities but may be eligible for reimbursement of expenses
36 pursuant to title 38, chapter 4, article 2, Arizona Revised Statutes.

37 C. The president and the speaker of the house of representatives shall
38 each appoint a cochairperson of the committee.

39 D. The commission shall meet on the call of the two cochairpersons,
40 but no more frequently than monthly.

41 E. The committee may:

42 1. Take testimony and other evidence regarding the international
43 border with Mexico.

44 2. Analyze border crossing statistics.

45 3. Analyze related crime statistics.

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1 4. Make recommendations designed to increase border security.

2 5. Make other recommendations deemed essential by the committee.

3 F. The committee may use the services of legislative staff as
4 required.

5 G. Beginning November 30, 2010 and each month thereafter, the
6 commission shall submit a written report of its findings and recommendations
7 to the speaker of the house of representatives, the president of the senate
8 and the governor. The commission shall provide a copy of the report to the
9 secretary of state.

10 H. Notwithstanding any law to the contrary, the committee may vote to
11 go into executive session to take testimony or evidence it considers
12 sensitive or confidential in nature, which if released could compromise the
13 security or safety of law enforcement or military personnel or a law
14 enforcement or national guard law enforcement support operation.

15 I. This section is repealed from and after December 31, 2014.

16 Sec. 8. Immigration legislation challenges

17 A. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and
18 any other law, through December 31, 2010, the attorney general shall act at
19 the direction of the governor in any challenge in a state or federal court to
20 Laws 2010, chapter 113 and any amendments to that law.

21 B. Notwithstanding title 41, chapter 1, Arizona Revised Statutes, and
22 any other law, through December 31, 2010, the governor may direct counsel
23 other than the attorney general to appear on behalf of this state to defend
24 any challenge to Laws 2010, chapter 113 and any amendments to that law.

25 Sec. 9. Conditional enactment

26 Sections 11-1051, 13-1509, 13-2928 and 13-2929, Arizona Revised
27 Statutes, as amended by this act, do not become effective unless Senate Bill
28 1070, forty-ninth legislature, second regular session, relating to unlawfully
29 present aliens, becomes law.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS Friendly House, et al (see attachment)</p> <p>(b) County of Residence of First Listed Plaintiff <u>Maricopa</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) See attachment</p>	<p>DEFENDANTS Michael B. Whiting, Apache County Attorney, et al (see attachment)</p> <p>County of Residence of First Listed Defendant <u>Apache</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
---	---

<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td>Citizen of This State</td> <td>PTF <input type="checkbox"/> 1</td> <td>DEF <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td>PTF <input type="checkbox"/> 4</td> <td>DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State	PTF <input type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FOREFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p>PRISONER PETITIONS</p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify)

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §§ 1981 and 1983

Brief description of cause:
Challenge to constitutionality of Arizona Senate Bill 1070

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

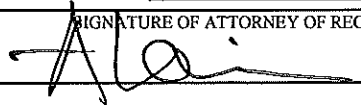
DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE Susan R. Bolton DOCKET NUMBER 2:10-cv-00926

DATE 05/17/2010

SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Civil Cover Sheet Attachment

I. (a) PLAINTIFFS

Friendly House; Service Employees International Union; Service Employees International Union, Local 5; United Food and Commercial Workers International Union; Arizona South Asians for Safe Families; Southside Presbyterian Church; Arizona Hispanic Chamber of Commerce; Asian Chamber of Commerce of Arizona; Border Action Network; Tonatierra Community Development Institute; Muslim American Society; Japanese American Citizens League; Valle Del Sol, Inc.; Coalición de Derechos Humanos; Andrew Anderson; Vicki Gaubeca; C.M., a minor; Luz Santiago; Jim Shee; Jose Angel Vargas; Jesús Cuauhtémoc Villa; John Doe #1; Jane Doe #1; and Jane Doe #2.

I. (a) DEFENDENTS

MICHAEL B. WHITING, Apache County Attorney, in his official capacity; EDWARD G. RHEINHEIMER, Cochise County Attorney, in his official capacity; DAVID W. ROZEMA, Coconino County Attorney, in his official capacity; DAISY FLORES, Gila County Attorney, in her official capacity; KENNY ANGLE, Graham County Attorney, in his official capacity; DEREK D. RAPIER, Greenlee County Attorney, in his official capacity; SAM VEDERMAN, La Paz County Attorney, in his official capacity; RICHARD M. ROMLEY, Maricopa County Attorney, in his official capacity ; MATTHEW J. SMITH, Mohave County Attorney, in his official capacity; BRAD CARLYON, Navajo County Attorney, in his official capacity; BARBARA LAWALL, Pima County Attorney, in her official capacity; JAMES P. WALSH, Pinal County Attorney, in his official capacity; GEORGE SILVA, Santa Cruz County Attorney, in his official capacity; SHEILA S. POLK, Yavapai County Attorney, in her official capacity; JON R. SMITH, Yuma County Attorney, in his official capacity; JOSEPH DEDMAN JR., Apache County Sheriff, in his official capacity; LARRY A. DEVER, Cochise County Sheriff, in his official capacity; BILL PRIBIL, Coconino County Sheriff, in his official capacity; JOHN R. ARMER, Gila County Sheriff, in his official capacity; PRESTON J. ALLRED, Graham County Sheriff, in his official capacity; STEVEN N. TUCKER, Greenlee County Sheriff, in his official capacity; DONALD LOWERY, La Paz County Sheriff, in his official capacity; JOSEPH ARPAIO, Maricopa County Sheriff, in his official capacity; TOM SHEAHAN, Mohave County Sheriff, in his official capacity; KELLY CLARK, Navajo County Sheriff, in his official capacity; CLARENCE W. DUPNIK, Pima County Sheriff, in his official capacity; PAUL BABEU, Pinal County Sheriff, in his official capacity; TONY ESTRADA, Santa Cruz County Sheriff, in his official capacity; STEVE WAUGH, Yavapai County Sheriff, in his official capacity; and RALPH OGDEN, Yuma County Sheriff, in his official capacity.

I. (c) ATTORNEYS FOR PLAINTIFFS

OMAR C. JADWAT
LUCAS GUTTENTAG
TANAZ MOGHADAM
AMERICAN CIVIL LIBERTIES UNION FOUNDATION IMMIGRANTS' RIGHTS PROJECT
125 Broad Street, 18th Floor
New York, New York 10004
Telephone: (212) 549-2660

THOMAS A. SAENZ
CYNTHIA VALENZUELA DIXON
VICTOR VIRAMONTES
GLADYS LIMÓN
NICHOLÁS ESPÍRITU
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
634 S. Spring Street, 11th Floor
Los Angeles, California 90014
Telephone: (213) 629-2512

LINTON JOAQUIN
KAREN C. TUMLIN
NORA A. PRECIADO
MELISSA S. KEANEY
VIVEK MITTAL
GHAZAL TAJMIRI
NATIONAL IMMIGRATION LAW CENTER
3435 Wilshire Boulevard, Suite 2850
Los Angeles, California 90010
Telephone: (213) 639-3900

DANIEL J. POCHODA
ANNE LAI
ACLU FOUNDATION OF ARIZONA
77 E. Columbus Street, Suite 205
Phoenix, Arizona 85012
Telephone: (602) 650-1854

CECILLIA D. WANG
HARINI P. RAGHUPATHI
ACLU FOUNDATION IMMIGRANTS' RIGHTS PROJECT
39 Drumm Street
San Francisco, California 94111
Telephone: (415) 343-0775

NINA PERALES
IVAN ESPINOZA-MADRIGAL
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND
110 Broadway Street, Suite 300
San Antonio, Texas 78205
Telephone: (210) 224-5476

JULIE A. SU
RONALD LEE
YUNGSUHN PARK
CONNIE CHOI
CARMINA OCAMPO
AMERICAN PACIFIC AMERICAN LEGAL CENTER, a member of Asian American Center for
Advancing Justice
1145 Wilshire Blvd., Suite 200
Los Angeles, California 90017

Telephone: (213) 977-7500

CHRIS NEWMAN
LISA KUNG
NATIONAL DAY LABOR ORGANIZING NETWORK
675 S. Park View Street, Suite B
Los Angeles, California 90057
Telephone: (213) 380-2785

DANIEL R. ORTEGA, JR.
ROUSH, MCCrackEN, GUERRERO, MILLER & ORTEGA
1112 E. Washington Street
Phoenix, Arizona 85034
Telephone: (602) 253-3554

LAURA D. BLACKBURNE
NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE (NAACP)
4805 Mt. Hope Drive
Baltimore, Maryland 21215
Telephone: (410)580-5700

BRADLEY S. PHILLIPS
PAUL J. WATFORD
JOSEPH J. YBARRA
ELISABETH J. NEUBAUER
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, California 90071-1560
Telephone: (213) 683-9100

SUSAN T. BOYD
YUVAL MILLER
MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
San Francisco, California 94105-2907
Telephone: (415) 512-4000

VIII. RELATED CASES

Judge Susan R. Bolton	Docket No: 2:10-cv-00926
Judge Lawrence O. Anderson	Docket No: 2:10-cv-00943
Judge Roslyn O. Silver	Docket No: 2:10-cv-00951
Judge David C. Bury	Docket No: 4:10-cv-00249