

Case No. 10-16645

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IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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United States of America,

*Plaintiff-Appellee,*

v.

State of Arizona and Janice K. Brewer, Governor of the State of Arizona, in her  
Official Capacity,

*Defendants-Appellants.*

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On Appeal From the United States District Court for the District of Arizona,  
Phoenix Division, Case No. 2:10-cv-01413-SRB,  
The Honorable Susan R. Bolton, District Judge

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**MOTION FOR LEAVE TO PARTICIPATE AS *AMICI CURIAE* OF  
NATIONAL COUNCIL OF LA RAZA, UNITED STATES HISPANIC  
CHAMBER OF COMMERCE, THE HISPANIC NATIONAL BAR  
ASSOCIATION AND LOS ABOGADOS HISPANIC BAR ASSOCIATION  
IN SUPPORT OF APPELLEE'S BRIEF AND UPHOLDING THE  
DISTRICT COURT'S DECISION**

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Pursuant to Rule 29(a) of the Federal Rules of Appellate Procedure and Circuit Rule 29(b), Movants, National Council of La Raza, United States Hispanic Chamber of Commerce, The Hispanic National Bar Association and Los Abogados Hispanic Bar Association respectfully move the Court for leave to participate as *amici curiae* and file the accompanying brief in support of Appellee, the United States of America.

### **INTEREST OF THE MOVANTS**

#### *The National Council of La Raza*

The National Council of La Raza ("NCLR")—the largest national Hispanic civil rights and advocacy organization in the United States—works to improve opportunities for Hispanic Americans. Through its network of nearly 300 affiliated community-based organizations ("CBOs"), NCLR reaches millions of Hispanics each year in 41 states, Puerto Rico and the District of Columbia. NCLR works through two primary, complementary approaches: (1) capacity-building assistance to support and strengthen Hispanic CBOs, especially those that serve low-income and disadvantaged Latinos; and (2) applied research, policy analysis, and advocacy to encourage adoption of programs and policies that equitably serve Hispanics. NCLR's seventeen Arizona affiliates (the "Affiliates") will be adversely

affected by the provisions of Arizona Senate Bill 1070 ("S.B. 1070")<sup>1</sup> enjoined by the district court in numerous ways. First, it will create and/or exacerbate barriers to the Affiliates' efforts to provide essential health, education and social services to Hispanics, particularly to the citizens and lawful residents of Arizona who happen to reside in households that include undocumented persons. Second, it will require the Affiliates to divert resources from their core programs to educate and assist individuals affected, or put at risk, by the enjoined provisions of S.B. 1070. Third, NCLR will be required to divert scarce resources both to create new educational materials and policy analysis regarding these provisions of S.B. 1070, and to assist the Affiliates in developing and implementing programs to educate and assist those affected by the law.

*The United States Hispanic Chamber of Commerce*

Founded in 1979, the United States Hispanic Chamber of Commerce ("USHCC") actively promotes the economic growth and development of Hispanic entrepreneurs and represents the interests of nearly 3 million Hispanic-owned businesses in the United States that generate nearly \$400 billion annually. It also serves as the umbrella organization for more than 200 local Hispanic chambers in the United States and Puerto Rico. The USHCC understands the frustration over a broken immigration system, but fears that the enjoined provisions of S.B. 1070, by

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<sup>1</sup> S.B. 1070 as used herein refers to S.B. 1070 as amended by H.B. 2162.

encouraging racial profiling of Latinos, will jeopardize community safety and the speedy recovery of our economy. The USHCC is particularly concerned about the added burdens that our merchants and entrepreneurs will face in the course of doing business when forced to defend their right to contribute to our society.

*Hispanic National Bar Association*

The Hispanic National Bar Association ("HNBA") is a nonprofit, non-partisan, national professional association that represents the interests of all attorneys, judges, law professors, legal assistants and law students of Hispanic descent in the United States and Puerto Rico. The HNBA has 39 affiliated bars in various states across the country, including Arizona. The HNBA's continuing mission is to improve the study, practice and administration of justice for all Americans by ensuring the meaningful participation of Hispanics in the legal profession. The HNBA was founded in 1972 to promote equal justice for all Americans by advancing the participation of Hispanics in the legal profession. While it is a voluntary bar association and not a civil rights organization, the HNBA also serves as the voice of the broader Hispanic community on issues that significantly affect Latinos' interactions with the legal system. As such, the HNBA has a vested interest in the equal opportunity of Latinos to be free from unlawful discrimination and harassment.

Members of the HNBA and our Arizona affiliate organization, Los Abogados Hispanic Bar Association, who practice in Arizona, fear that if the enjoined provisions of S.B. 1070 are implemented, it will inhibit them from fully serving clients and vindicating their clients' legal rights. By causing many individuals of Hispanic descent to flee the State, these provisions of S.B. 1070 will cause cases to be either delayed, held in abeyance or left unprosecuted, thereby denying HNBA's clients a timely adjudication of their claims and rights.

*Los Abogados Hispanic Bar Association of Arizona*

Los Abogados Hispanic Bar Association of Arizona ("Los Abogados") is the Hispanic Bar Association of the State of Arizona. The primary purposes of Los Abogados are: (1) to enhance the quality of legal services provided to the community; (2) to educate the Hispanic community regarding its rights and remedies, as well as the availability of legal services; (3) to receive and administer funds for the promotion and advancement of the Hispanic legal profession within the State of Arizona; and (4) to aid in gathering, exchanging and disseminating facts and information relating to the business methods within the Hispanic legal profession. Los Abogados pursues these goals with a view of promoting the business of the Hispanic legal profession within the State of Arizona. Los Abogados has a particular interest in this lawsuit because its members represent Latinos in the State of Arizona whose lives and legal representation are directly

affected by the enjoined provisions of S.B. 1070.

**THE *AMICUS* BRIEF IS DESIRABLE AND PRESENTS MATTERS  
RELEVANT TO THE DISPOSITION OF THE CASE**

*Amici* wish to bring to the Court's attention additional legal arguments and factual perspectives to buttress Appellee's arguments that the district court's preliminary injunction of provisions of S.B. 1070 should be upheld on appeal. The proposed brief demonstrates that, if allowed to take effect, the enjoined provisions of S.B. 1070 will severely disrupt the federal scheme to provide essential services to undocumented immigrants, including emergency medical care and school lunch programs for children. Perhaps more importantly, the proposed brief demonstrates how the enjoined provisions of S.B. 1070 will deprive undocumented Latino children—as well as Latino children who are themselves citizens or legal residents, but whose parents are undocumented—of a primary and secondary education, in violation of the Supreme Court's holding in *Plyler v. Doe*, 457 U.S. 202 (1982). The proposed brief further demonstrates that reversing the district court's injunction of provisions of S.B. 1070 will foster discriminatory animus against and harassment of Latinos, will threaten the physical safety of Latinos residing in Arizona, and will subject Arizona's Latino community to racial profiling and other civil rights violations.

## CONCLUSION

NCLR *et al.* seek leave to provide the Court with these additional perspectives on the harm that the enjoined provisions of S.B. 1070 will impose if they are allowed to take effect.

Dated: September 30, 2010

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that on September 30, 2010, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that all participants in this case are registered CM/ECF users.

Dated September 30, 2010

S/ STEPHANIE FLEISCHMAN CHERNY  
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