U.S. Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Avenue, NW, Room 7531
Washington, D.C. 20530

Tel: (202) 514-5089
Fax: (202) 307-2551

March 11, 2011

VIA CM/ECF

Ms. Molly C. Dwyer
Clerk, United States Court of Appeals
for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *United States of America v. Arizona*, No. 10-16645 (9th Cir.)
Argued November 1, 2010 before Judges Noonan, Paez, and Bea

Dear Ms. Dwyer:

Pursuant to F.R.A.P. 28(j), the United States hereby responds to the March 1, 2011, letter filed by the State of Arizona concerning *Williamson v. Mazda Motor of America, Inc.*, No. 08-1314 (S. Ct.).

The Supreme Court in *Williamson* held that a federal seat-belt regulation did not preempt a state tort action, based on its examination of the regulation's purpose. The Court noted that the regulation gave manufacturers a choice in selecting an appropriate seat belt, but that, unlike the regulation in *Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000), affording the automakers that choice was not "a significant regulatory objective." Op. 8. In reaching that conclusion, the Court reasoned that the agency's views on preemption "should make a difference," because "[t]he agency is likely to have a thorough understanding of its own regulation and its objectives and is uniquely qualified to comprehend the likely impact of state requirements." Op. 11 (internal quotation marks omitted).

Williamson did not announce new preemption principles, and it reaffirmed that courts must give weight to the federal government's view of whether a preemptive conflict exists. As explained in the United States' brief, the provisions at issue here clearly do interfere with significant objectives of the Immigration and Nationality Act and its implementation by federal officials—including the central requirement that any assistance furnished by state personnel to federal officials in enforcing federal immigration laws must be cooperative and governed by federal priorities and policies, not the State's own mandates and criminal sanctions.

Similarly, *Williamson* does not call into question this Court's analysis in *National Center for Immigrants' Rights v. INS*, 913 F.2d 1350 (9th Cir. 1990), in which the Court recognized that Congress exhibited "a concern for fair and humane enforcement of the immigration laws" and rejected employee sanctions, instead adopting only sanctions on employers "in the belief that it is 'the most humane, credible and effective way to respond to the large-scale influx of undocumented aliens.'" *Id.* at 1369 (quoting H.R. Rep. 99-682, pt. 1, at 46), *rev'd on other grounds*, 502 U.S. 183 (1991).

Sincerely,

TONY WEST
Assistant Attorney General

DENNIS K. BURKE
United States Attorney

EDWIN S. KNEEDLER
Deputy Solicitor General

BETH S. BRINKMANN
Deputy Assistant Attorney General

MARK B. STERN
THOMAS M. BONDY
MICHAEL P. ABATE
DANIEL TENNY
(202) 514-5089
Attorneys, Appellate Staff
Civil Division, Room 7531
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

s/ Thomas M. Bondy
s/ Daniel Tenny

Attorneys for the United States

cc (by CM/ECF): All Counsel of Record