

No. 10-16645

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Appeal from the United States
District Court for the District of Arizona
No. CV 10-1413-PHX-SRB

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.

**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF BY THE
COUNTY OF SANTA CLARA, CALIFORNIA; THE CITY OF
BALTIMORE, MARYLAND; THE CITY OF BERKELEY, CALIFORNIA;
THE CITY OF MINNEAPOLIS, MINNESOTA; THE COUNTY OF
MONTEREY, CALIFORNIA; THE CITY OF NEW HAVEN,
CONNECTICUT; THE COUNCIL OF THE CITY OF NEW YORK, NEW
YORK; THE CITY OF PALO ALTO, CALIFORNIA; THE CITY OF
PORTLAND, OREGON; THE CITY OF SAINT PAUL, MINNESOTA;
SALT LAKE CITY, UTAH; THE CITY AND COUNTY OF SAN
FRANCISCO, CALIFORNIA; THE CITY OF SAN JOSE, CALIFORNIA;
THE COUNTY OF SAN MATEO, CALIFORNIA; THE CITY OF
SEATTLE, WASHINGTON; AND THE UNITED STATES CONFERENCE
OF MAYORS IN SUPPORT OF PLAINTIFF-APPELLEE**

MIGUEL MÁRQUEZ, County Counsel (Cal. Bar # 184621)
GRETA S. HANSEN, Acting Lead Deputy County Counsel (Cal. Bar # 251471)
ANJALI BHARGAVA, Deputy County Counsel (Cal. Bar # 267911)
70 West Hedding Street, East Wing, Ninth Floor
San Jose, California 95110-1770
Telephone: (408) 299-5900

Attorneys for the County of Santa Clara, California
Counsel for Additional *Amici* Listed on Subsequent Pages

GEORGE A. NILSON, City Solicitor (D. Md. Bar # 01123)
WILLIAM R. PHELAN, JR., Chief Solicitor (D. Md. Bar # 24490)
Baltimore City Department of Law
100 Holliday Street
Baltimore, Maryland 21202
Telephone: (410) 396-4094

Attorneys for the Mayor and City Council of Baltimore, Maryland

ZACH COWAN, City Attorney (Cal. Bar # 963721)
Berkeley City Attorney's Office
2180 Milvia Street, Fourth Floor
Berkeley, California 94704
Telephone: (510) 981-6998

Attorney for the City of Berkeley, California

SUSAN L. SEGAL, Minneapolis City Attorney (Minn. Bar # 137157)
PETER W. GINDER, Deputy City Attorney (Minn. Bar # 35099)
Minneapolis City Attorney's Office
City Hall, Room 210
350 South 5th Street
Minneapolis, Minnesota 55415
Telephone: (612) 673-2010

Attorneys for the City of Minneapolis, Minnesota

CHARLES J. McKEE, County Counsel (Cal. Bar #152458)
WILLIAM LITT, Deputy County Counsel (Cal. Bar #166614)
Office of the County Counsel
County of Monterey
168 W. Alisal Street, 3rd Floor
Salinas, California 93901-2680
Telephone: (831) 755-5045

Attorneys for the County of Monterey, California

VICTOR A. BOLDEN, Corporation Counsel (Conn. Juris. #418904)
VIKKI COOPER, Deputy Corporation Counsel (Conn. Juris. #422788)
KATHLEEN M. FOSTER, Assistant Corporation Counsel (Conn. Juris. #303744)
Office of the Corporation Counsel
165 Church Street
New Haven, Connecticut 06510
Telephone: (203) 946-7950

Attorneys for the City of New Haven, Connecticut

ELIZABETH R. FINE, General Counsel (N.Y. Bar # 2193456)
JEFFREY P. METZLER, Chief of Litigation (N.Y. Bar # 4167714)
LAUREN G. AXELROD, Associate General Counsel (N.Y. Bar # 4314613)
250 Broadway, 15th Floor
New York, New York 10007
Telephone: (212) 788-9131

Attorneys for the Council of the City of New York, New York

GARY M. BAUM, City Attorney (Cal. Bar # 117200)
P.O. Box 10250
250 Hamilton Avenue, 8th Floor
Palo Alto, California 94303
Telephone: (650) 329-217

Attorney for the City of Palo Alto, California

LINDA MENG, City Attorney (Ore. Bar # 793867)
1221 SW 4th Avenue, Room 430
Portland, Oregon 97204
Telephone: (503) 823-4047

Attorney for the City of Portland, Oregon

GERALD T. HENDRICKSON, Interim City Attorney (Minn. Bar # 43977)
Office of the City Attorney
400 City Hall
15 West Kellogg Boulevard
Saint Paul, Minnesota 55102
Telephone: (651) 266-8710

Attorney for the City of Saint Paul, Minnesota

EDWIN P. RUTAN, II, City Attorney (Utah Bar # 9615)
MARTHA STONEBROOK, Senior City Attorney (Utah Bar # 5149)
PO Box 145478
Salt Lake City, Utah 84114-5478
Telephone: (801) 535-7788

Attorneys for the Salt Lake City Corporation

DENNIS J. HERRERA, City Attorney (Cal. Bar #139669)
WAYNE SNODGRASS, Deputy City Attorney (Cal. Bar #148137)
1 Dr. Carlton B. Goodlett Place
City Hall, Room 234
San Francisco, California 94102-4682
Telephone: (415) 554-4675

Attorneys for the City and County of San Francisco, California

RICHARD DOYLE, City Attorney (Cal. Bar # 88625)
NORA FRIMANN, Assistant City Attorney (Cal. Bar # 93249)
Office of the City Attorney
200 East Santa Clara Street
San Jose, California 95113-1905
Telephone: (408) 535-1900

Attorneys for the City of San Jose, California

MICHAEL P. MURPHY, County Counsel (Cal. Bar # 83887)
JOHN NIBBELIN, Deputy County Counsel (Cal. Bar # 184603)
400 County Center
Redwood City, California 94063
Telephone: (650) 363-4250

Attorneys for the County of San Mateo, California

PETER S. HOLMES, City Attorney (Wash. Bar # 15787)
JEAN BOLER, Civil Division Chief (Wash. Bar # 30997)
City Attorney's Office
600 4th Avenue, 4th floor
P.O. Box 94769
Seattle, Washington 98124-4769
Telephone: (206) 684-8207

Attorneys for the City of Seattle, Washington

JOHN DANIEL REAVES, General Counsel (Unified Bar # 164897)
U.S. Conference of Mayors
1200 New Hampshire Avenue NW, Suite 800
Washington, DC 20036
Telephone: (202) 776-2305

Attorney for the United States Conference of Mayors

I.

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, the County of Santa Clara, California; the City of Baltimore, Maryland; the City of Berkeley, California; the City of Minneapolis, Minnesota; the County of Monterey, California; the City of New Haven, Connecticut; the Council of the City of New York, New York; the City of Palo Alto, California; the City of Portland, Oregon; the City of Saint Paul, Minnesota; Salt Lake City, Utah; the City and County of San Francisco, California; the City of San Jose, California; the County of San Mateo, California; the City of Seattle, Washington; and the United States Conference of Mayors (hereinafter “*amici*”) respectfully move for leave to file the attached *amicus curiae* brief in support of Appellee the United States of America.

II.

INTERESTS OF *AMICI CURIAE*

Cities and counties across the United States are responsible for providing essential services to their residents, including funding, operating, and overseeing local law enforcement agencies. The local governments seeking leave to appear as *amici curiae* serve racially, ethnically, economically, and culturally diverse communities nationwide. Our jurisdictions are home to some of the largest immigrant communities in the country, and our local law enforcement agencies

provide law enforcement services within these communities.

The United States Conference of Mayors (“Conference”), founded in 1932, is the official nonpartisan organization of cities with populations of 30,000 or more, of which there are some 1,200. Each city is represented in the Conference by its chief elected official, the mayor. The Conference’s member cities provide law enforcement services in diverse communities throughout the nation.

By passing Arizona Senate Bill 1070, as amended by Arizona House Bill 2162 (hereinafter referred to as “SB 1070”), the State of Arizona seeks to impose a comprehensive state immigration enforcement regime that will threaten the ability of local governments and local law enforcement agencies to protect public safety. The provisions of SB 1070 that most significantly undermine the ability of local governments to protect public safety—Sections 2(B), 3, and 6—were preliminarily enjoined by the district court.

If the district court’s preliminary injunction is lifted and these provisions are allowed to take effect, the ramifications will be felt not only in communities within Arizona, but in our jurisdictions as well. These provisions suggest, wrongly, that the enforcement of federal civil immigration law is the responsibility of local government officials and that basic constitutional principles do not apply when local officials are enforcing immigration law. That message would be heard not only in Arizona but in every state across the country, making immigrants —

whether they are naturalized citizens, lawful permanent residents, visa holders, or undocumented individuals — deeply distrustful of local governments and law enforcement officials. Such distrust will have serious, long-term deleterious effects on the ability of local governments to protect the health and safety of all of our residents. Accordingly, *amici* have a strong interest in seeing the district court’s preliminary injunction upheld.

III.

REASONS WHY FILING AN *AMICUS* BRIEF IS DESIRABLE

Based on our experience operating and overseeing local law enforcement agencies, *amici* can provide the Court with an important perspective on how the enjoined provisions of SB 1070 would operate and how their implementation would impact communities nationwide if the district court’s preliminary injunction is overturned. Specifically, *amici* can explain how the enjoined provisions cannot be implemented in a constitutional manner, the extent to which they are vague, impractical, costly, and deeply damaging to the relationships of trust that local law enforcement agencies have built with immigrant communities and the public at large, and the ways that they will hinder the ability of local law enforcement agencies—both in Arizona and nationwide—to carry out their core mission of ensuring public safety.

