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30 ATTORNEYS FOR PLAINTIFFS

31
 32 **UNITED STATES DISTRICT COURT**
 33 **DISTRICT OF ARIZONA**
 34

35 NATIONAL COALITION OF LATINO CLERGY)
 36 AND CHRISTIAN LEADERS (“CONLAMIC”),)
 37 PHOENIX, ARIZONA, LA HERMOSA CHURCH,)
 38 LAURA MADERA, CARMEN GALINDO,)
 39 ~~FERMIN LEON,~~ MANUEL SIGUENZA,)
 40 MOISES HERRERA, JOE RIVERA, JANE DOE, AND)
 41 JOHN DOE’S 1-3, INDIVIDUALLY AND ON BEHALF)
 42 OF ALL THOSE SIMILARY SITUATED,)
 43)
 44 PLAINTIFFS,)
 45)
 46 v.)
 47)
 48 STATE OF ARIZONA, GOVERNOR JAN BREWER,)
 49 TERRY GODDARD, ARIZONA ATTORNEY)

CASE NO. 2:10-cv-943

SECOND AMENDED
COMPLAINT FOR
DECLARATORY,
AND INJUNCTIVE
AND FURTHER
RELIEF

1 GENERAL, IN HIS OFFICIAL CAPACITY, JOSEPH)
2 ARPAIO, MARICOPA COUNTY SHERIFF, IN HIS)
3 OFFICIAL CAPACITY, RICHARD M. ROMLEY,)
4 MARICOPA COUNTY ATTORNEY, IN HIS)
5 OFFICIAL CAPACITY,)
6)
7 DEFENDANTS.)
8)
9)
10)

CLASS ACTION

I. PRELIMINARY STATEMENT

11 **1.** This action is brought on behalf of U.S. citizens, a U.S. non-profit corporation, legal
12 U.S. residents and aliens seeking judicial clarification of the jurisdiction, authority, and
13 constitutional rights of the state of Arizona (“Arizona”), in adopting and enforcing an
14 immigration law known as ~~“S.B. 1070–Anti-Immigration Act (“Act”)”~~. If the law is
15 found to be unconstitutional or in any other way illegal, we respectfully request
16 injunctive ~~and mandamus~~-relief ordering Arizona to cease and desist enforcement of the
17 law. ~~The specific request is as follows:~~ Specifically, Plaintiffs challenge Sections 1, 2, 3,
18 5, 6 and 10 of S.B. 1070, as amended by H.B. 2162, as unlawful, unconstitutional and
19 preempted by federal law.

20
21 ~~(A). The plaintiffs have reason to believe that the underlying law, adopted and signed by~~
22 ~~Governor Jan Brewer , raises significant preemption concerns. Initially, the law clearly~~
23 ~~intends to govern many types of conduct already covered by federal immigration law.~~
24 ~~Congress and the Executive branch have historically occupied the field of immigration~~
25 ~~law. The new Arizona Act creates state wide immigration regulations independent from~~
26 ~~the existing federal system and clearly conflicts with federal immigration law. Thus,~~
27 ~~judicial clarification is required on the jurisdiction and constitutional authority of the state~~
28 ~~of Arizona to adopt and enforce such a law.~~

1 ~~(B).—Arizona’s law, as written, will lead to “national origin” and “race” discrimination,~~
2 ~~26 in violation of Title VII of the Civil Rights Act and the Fair Housing Act (FHA).~~

3 ~~(C)—The law, as written, also gives rise to 42 USC § 1981 violations as section 1981~~
4 ~~prohibits alienage discrimination.~~

5 ~~(D).—Due to the constitutional and statutory violations set forth above, we require~~
6 ~~injunctive and mandamus relief ordering the state of Arizona to cease and desist~~
7 ~~enforcement of the “Act” until clarification is made by this court.~~

8 2. The Supremacy Clause of the U.S. Constitution provides that federal laws and
9 treaties are “the supreme law of the land.” While federal and state power to regulate
10 certain matters is concomitant, the Supreme Court has long recognized that the regulation
11 of immigration “is unquestionably exclusively a federal power,” *Delanas v. Bica*, 424
12 U.S. 351, 354 (1976). In *Hines v. Davidowitz*, 312 U.S. 52 (1941), the Supreme Court
13 ruled that enforcement of a Pennsylvania statute requiring the registration of aliens was
14 precluded by the Federal Alien Registration Act of 1940, which established a
15 comprehensive federal scheme for the registration of aliens.

16
17 3. The Immigration and Nationality Act (“INA”) vests authority in the Attorney
18 General and Secretary of Homeland Security to administer and enforce all laws relating
19 to immigration and naturalization, including determinations regarding the immigration
20 status of aliens. As such, states and localities are preempted by federal law from making
21 their own independent assessment as to whether an alien has committed an immigration
22 violation and imposing penalties against such aliens (along with persons who have

1 provided them with assistance) on the basis of that assessment. Such authority is
2 conferred exclusively to designated federal authorities by the INA.

3 ~~3. INA § 274A generally prohibits the hiring, referring, recruiting for a fee, or~~
4 ~~continued employment of illegal aliens. Violators may be subject to cease and desist~~
5 ~~orders, civil monetary penalties, and (in the case of serial offenders) criminal fines and/or~~
6 ~~imprisonment for up to 6 months. Notably, INA § 274A expressly preempts any state or~~
7 ~~local law imposing civil or criminal sanctions upon those who employ, or recruit or refer~~
8 ~~for a fee for employment, unauthorized aliens.~~

9 ~~4. Under INA § 274B, employers are prohibited from discriminating against any~~
10 ~~individual (other than an unauthorized alien) on account of that alien's national origin or~~
11 ~~citizenship status. Employers throughout the state will refrain from hiring individuals~~
12 ~~who they have "reasonable suspicion" to believe are undocumented. This will lead to~~
13 ~~discrimination.~~

14 5.4. Arizona's law is unconstitutionally vague and ambiguous. It does not afford
15 individuals adequate notice of what conduct is prohibited. It also does not provide a
16 mechanism to determine whether an immigration violation has occurred, when or
17 whether reasonable suspicion exists to question, arrest or detain an individual, or whether
18 someone has committed a public offense that makes the person removable. The State of
19 Arizona and its agents cannot make these determinations without running afoul of federal
20 law and the U.S. Constitution.

21
22 ~~6.5. Furthermore, the law allows for the arrest of an alien who has committed a~~
23 ~~"public offense" but such term is not found in the INA. Arizona [§13-3883 (5)]. The~~

1 Arizona law's reliance on federal agents to "ascertain" someone's immigration status is
2 not a reliable mechanism for this purpose, as the federal government's databases are
3 notoriously out-of-date and unreliable. In many instances, individuals have been
4 afforded immigration relief that the databases simply do not reflect. It is therefore likely
5 that under S.B. 1070, local law enforcement will unlawfully detain or arrest individuals
6 who have legal status, even though they ultimately will not prevail in the prosecution of
7 any offense under the Arizona law.

8
9 ~~7. The INA generally vests authority to the Attorney General and Secretary of Homeland~~
10 ~~Security to administer and enforce all laws relating to immigration and naturalization,~~
11 ~~including determinations regarding the immigration status of aliens. As such, states and~~
12 ~~localities are preempted by federal law from making their own independent assessment as~~
13 ~~to whether an alien has committed an immigration violation and imposing penalties~~
14 ~~against such aliens (along with persons who have provided them with assistance) on the~~
15 ~~basis of that assessment. Such authority is conferred exclusively to designated federal~~
16 ~~authorities by the INA.~~

17
18 ~~8.6. The actions of the state of Arizona deprive plaintiffs of their family and~~
19 ~~cause Plaintiffs injury by causing or prolonging family separation.~~ Countless Arizona
20 residents ~~plaintiffs~~ have moved ~~from Arizona~~ out of the state due to fear that local
21 authorities will begin implementing ~~this unconstitutional law~~ S.B. 1070. The plaintiffs are
22 being denied their constitutional rights as the law violates the preemption clause, is
23 unconstitutionally vague, ~~conflicts with Federal Housing Assistance regulations,~~ will lead

1 to National origin and race discrimination, and will cause unlawful questioning,
2 detention, and arrests. ~~on its face is vague and ambiguous. As such, we respectfully~~
3 ~~request injunctive and mandamus relief ordering the state of Arizona to cease and desist~~
4 ~~enforcement of the law.~~

5
6
7 ~~9.(A)~~ 7. The Department ~~of Justice~~ of Homeland Security's 287(g) is a federal program
8 that allows certain state and local law enforcement agencies to engage in federal
9 immigration enforcement activities, when such authority is expressly delegated by the
10 federal government. The federal government has permitted ~~S~~ several Arizona law
11 enforcement agencies ~~are allowed~~ to participate in the 287(g) program, including
12 Maricopa County. ~~which, combined with the state's new law, creates a disastrous~~
13 ~~interviewing of police with immigration enforcement in that state.~~ The 287(g) program,
14 as implemented by Arizona local law enforcement agencies, including Maricopa County,
15 has led to illegal racial profiling and civil rights abuses while diverting scarce resources
16 from traditional local law enforcement functions ~~and distorting immigration enforcement~~
17 ~~priorities.~~ A report released earlier this ~~month~~ year by the DHS Office of Inspector
18 General (OIG) affirmed the concerns with the 287(g) program. The DHS OIG report
19 found a lack of federal oversight, training and other failures in the 287(g) program and
20 made it clear that the program does not have adequate safeguards against racial profiling
21 and other civil rights abuses. Many state and local agencies accepted for the program
22 have a documented history of serious allegations of constitutional violations. Arizona's
23 recently-enacted immigration law is an extension of these unconstitutional and unlawful

1 practices. It empowers local law enforcement throughout the state to execute these
2 important federal immigration powers without the Congressionally-mandated federal
3 authorization, oversight, training and accountability, which can only lead to more racial
4 profiling and other civil rights abuses, including unlawful detentions.

5
6 8. Plaintiffs include La Hermosa Church, whose primary purpose is to promote
7 Christian values and spread the gospel of Jesus Christ. La Hermosa Church serves the
8 Latino community in Phoenix, and its membership is predominantly Latino. The
9 transportation and harboring provisions of S.B. 1070 violate Plaintiffs' freedom of
10 religion and association by interfering with their ability to reach out to and embrace all
11 members of the community; bring members of the community into the Church; minister
12 to the poor, sick and elderly; promote and perform acts of charity; nurture families; and
13 provide food, shelter and access to services, including by transportation, to those need---
14 all regardless of immigration status. Also, because of the documentation requirements
15 and criminal penalties imposed by S.B. 1070, certain parishioners will be unable or
16 unwilling to leave their houses to come to the Church, which interferes with the Church
17 and its members' right to freedom of association in the practice of their religion.

18 19 **II. JURISDICTION AND VENUE**

20 **9.** This Court has jurisdiction under its general federal question jurisdiction 28
21 U.S.C. §~~Section~~ 1331, and specific jurisdiction over claims arising under the Immigration
22 and Nationality Act 8 U.S.C § 1329. ~~This court is the proper venue for the writ of~~
23 ~~Mandamus pursuant to 28 U.S.C. Section 1361. Jurisdiction is also conferred pursuant to~~

1 ~~Rules 57 and 65 of the Federal Rules of Civil Procedure which permit declaratory and~~
2 ~~injunctive actions.~~

3 **10.** The District of Arizona is the proper venue for this action pursuant to 28 U.S.C. §
4 1391 (e), as it is here where the Defendants' policies and practices have been
5 implemented.

6 **III. STANDING**

7 **11.** Plaintiffs have standing to commence this action as they are individuals and
8 organizations which will suffer irreparable personal, constitutional and economic harm as
9 a result of the state's unconstitutional and unlawful actions.

10 **12.** The Defendants' policy also causes and prolongs the separation of family
11 members. Plaintiffs have a particular interest in preserving their family units. (See
12 *Abourzek v. Reagan*, 785 F. 2d 1043, 251 U.S App. D.C. 355 (1985); *Clark v. Securities*
13 *(Indus) Ass'n*. 479 U.S. 388, 395-96, 107 S. Ct. 750, 754, 93 L.E.d. 2^d 757 (1987)). *H.R.*
14 *Rep No. 1365*, 82d Cong., 2d Sess. (1952) reprinted in 1952 U.S.C. C.A.N. 1653, 1680.
15 Additionally, although there is indirect precedent, there is no controlling decision
16 regarding such a law.

17 **13.** President Barack Obama recently mentioned that the Department of Justice is
18 investigating potential civil rights violations inherent in the new Arizona law. ~~See~~
19 ~~Exhibit "A". In discretion to the Executive Branch in matters involving immigration, this~~
20 ~~court should enjoin the state from enacting the law until the Department of Justice has~~
21 ~~spoken.~~

22 **IV. PARTIES**

23 **Individual Plaintiffs And Their Factual Allegations**

1 **14.** Joe Rivera (“Joe”) owns a business that caters primarily to Latinos and his
2 business will drop by at least 60% if this law goes into effect.

3 **15.** Plaintiff Pastor Moises Herrera (“Pastor Herrera”) is a resident of Pheonix. Pastor
4 Herrera ~~Moises Herrera (“Moises”) is a Pastor that~~ owns 3 Spanish language radio
5 stations. His listeners are all Hispanic and he will lose the large majority of his listeners
6 if the challenged provisions of S.B. 1070 are not declared invalid and enjoined, because
7 many will move out of Arizona out of fear of arrest, detention or prosecution under the
8 new law. Pastor Herrera ~~Moises~~ is also a well known Pastor with thousands of church
9 members that are all Hispanic, in a church he has spent years building. Unless the
10 challenged provisions of S.B. 1070 are declared invalid and enjoined, He ~~he~~ will lose a
11 great percentage of his church members and donations to the church, and ~~His~~ church
12 will fail ~~if this law goes into effect.~~

13 **16.** Manuel Siguenza (“Manuel”) ~~has~~ owned a large car sales business for 16 years
14 that pays between \$200,000 and \$350,000 dollars a year in taxes to the ~~s~~State of Arizona.
15 His business is in a primarily Latino neighborhood and his clients are predominantly
16 Latinos. He will lose the majority of his business and he will have to close his business, if
17 the challenged provisions of S.B. 1070 are not declared invalid and enjoined. Manuel is
18 an Immigrant from El Salvador who is now a U.S. Citizen. He has one son who has
19 graduated from Arizona State University and another currently attending high school.
20 Manuel fears that ~~B~~ because he ~~I~~ looks Latino ~~I could~~ he may be stopped because of the
21 color of ~~my~~ his skin. ~~I~~ He fears that ~~my~~ his rights may be violated.

22 ~~17. — Fermin Leon (“Fermin”) is undocumented and so is his wife but he has U.S. born~~
23 ~~children that are in school that are 16 and 18 years of age. Fermin has a very successful~~

1 ~~bakery business that would suffer if this law goes into effect. Fermin fears that if he may~~
2 ~~be stopped because of his Latino appearance. If he is stopped he could be deported and he~~
3 ~~would lose his business and his children would have to go to a country that they do not~~
4 ~~know.~~

5 ~~18.~~ 17. Carmen Galindo (“Carmen”) is a lawful ~~Permanent~~ permanent Resident
6 resident and speaks English with an accent. She appears to be Latina and is afraid that if
7 she gets pulled over she will be racially profiled and ~~may be~~ damaged by being ~~asked if~~
8 ~~she has~~ required to produce her permanent residence card. If she forgets it she would be
9 charged with a crime according with this law. ~~She would then not be eligible to get her~~
10 ~~U.S. Citizenship.~~ She is a member of CONLAMIC, and does countless hours of
11 Christian community service every week. Unless the law is permanently enjoined and
12 declared invalid, Plaintiff Galindo expects to be questioned, detained or arrested. She is
13 also a business owner who stands to lose clientele and suffer economic harm as a result of
14 Latinos leaving the State of Arizona out of fear of the new law.

15 ~~19.~~ 18. Laura Madera (“Laura”) is a lawful permanent resident who fears being
16 racially profiled because she is and appears Latina, and ~~may be damaged by being asked~~
17 ~~if she has~~ will be harmed if required to produce her permanent residence card. If she
18 forgets it she would be charged with a crime according with this law. ~~She would then not~~
19 ~~be eligible to get her U.S. Citizenship.~~ Laura is pregnant and the ~~Father~~ father of the child
20 lives with her and is currently her domestic partner. He is undocumented and is in process
21 of legalizing. Her pregnancy would be at risk if her common law husband were to be
22 arrested, detained or ~~and~~ deported as well. Unless the law is permanently enjoined and

1 declared invalid, Plaintiff fears she and her husband will be arrested, and that her family
2 will be harmed and forced to leave the area.

3 ~~20.~~ 19. Plaintiff Manuel Siguenza (“Siguenza”) is a resident of Arizona. Plaintiff
4 Siguenza owns a car dealership that caters primarily to Latino customers. Plaintiff
5 Siguenza already has lost much business, including prospective clients, due to the ~~now~~
6 ~~new law, even though it has not been implemented until late summer. Upon information~~
7 ~~and belief, Plaintiff Siguenza has lost prospective clients due to the law.~~ Plaintiff
8 Siguenza does not know the immigration status of his present clients, nor of the clients he
9 lost.

10 ~~21.~~ 20. Plaintiff Joe Rivera (“Rivera”) is a resident of Mesa, Arizona. Plaintiff
11 Rivera has a title/mortgage company, and has already lost clients due to the law, as
12 Latinos have begun leaving Arizona out of fear of the new law. Upon information and
13 belief, Plaintiff Rivera has lost prospective clients due to the law. ~~Plaintiff Rivera does~~
14 ~~not know the immigration status of his present clients, nor of the clients he has lost.~~

15 ~~22.~~ 21. In the course of their businesses, Plaintiffs Siguenza and Rivera each
16 allow Latino clients into the buildings of their businesses without regard to the client’s
17 immigration status, whether the client is in possession of alien registration documents, or
18 how the client entered the United States. It is difficult if not impossible for Plaintiffs
19 Siguenza and Rivera to determine whether each of their clients is or is not an "authorized
20 alien" as defined by the law. ~~Plaintiffs Siguenza and Rivera have received no guidance or~~
21 ~~training from Arizona or others regarding how to determine whether an individual is an~~
22 ~~"authorized alien."~~ Plaintiffs Siguenza and Rivera have no expertise in applying
23 immigration law or making immigration status determinations. ~~Plaintiffs Siguenza and~~

1 ~~Rivera have no expertise in determining the authenticity of immigration-related~~
2 ~~documentation.~~ As a result of S.B. 1070, these Plaintiffs risk questioning, arrest,
3 detention and/or prosecution for violating the provisions related to harboring an
4 “unlawful alien.” See A.R.S. 13-2929.

5 ~~23. Because of the impossibility of fully complying with the law, it is likely that~~
6 ~~Plaintiffs Siguenza and Rivera will sell goods to a person who is classified as an~~
7 ~~“unauthorized alien” under the law.~~

8 ~~24.~~ 22. Plaintiffs Siguenza and Rivera also transport Latino clients in the course
9 of their businesses to different locales. Plaintiffs now risk being unlawfully questioned,
10 arrested, detained or charged with violation of the provision in S.B. 1070 related to
11 transporting “unlawful aliens” because they do not know, do not ask, and do not care to
12 know the immigration status of their clients, whether the client is in possession of alien
13 registration documents, or how the client entered the United States. ~~might be considered~~
14 ~~in violation of the law because their clients often stay for an extended period of time in~~
15 ~~their business and they often transport them to different locals. As a result they may be~~
16 ~~considered to be in violation of the new law.~~ See A.R.S. 13-2929.

17 ~~25.~~ 23. Since the law was signed, Plaintiffs Siguenza and Rivera have lost
18 approximately 80% of their businesses as a result of S.B. 1070.

19 ~~26.~~ 24. Unless the law is permanently enjoined and declared invalid, Plaintiffs
20 Siguenza and Rivera are likely to incur significant monetary fines for violating the law.
21 Even prior to being fined they will have to close their businesses due to the negative
22 impact brought on by the law.

1 ~~27. Plaintiff Pastor Moises Herrera (“Herrera”) is a resident of Pheonix. Plaintiff~~
2 ~~Herrera is a Pastor of a large church. Plaintiff Herrera is legally in the US and has spent~~
3 ~~countless years building his church. He fears losing his church and their radio stations if~~
4 ~~the law is implemented.~~

5 ~~28. Plaintiff Carmen Galindo (“Galindo”) is a lawful permanent resident. She speaks~~
6 ~~English with an accent, she appears Latina and is scared of being racially profiled and~~
7 ~~arrested if the new law goes into affect. Plaintiff Galindo does countless hours of~~
8 ~~Christian community service every week. Unless the law is permanently enjoined and~~
9 ~~declared invalid, Plaintiff Galindo expects to be arrested.~~

10 ~~29. Plaintiff Jane Doe 1 is 26 years old. She resides in Phoenix, Arizona. Plaintiff~~
11 ~~Jane Doe 1 is from Mexico. Plaintiff Jane Doe 1 entered the United States on a visitor’s~~
12 ~~visa. Her authorized period of stay was six months. Plaintiff Jane Doe did not depart~~
13 ~~from the United States after six months. Since passage of the law, Plaintiff fears going~~
14 ~~outside as she has already been intimidated by individuals yelling at her to “go back to~~
15 ~~your country”. Plaintiff Jane Doe is aware she is undocumented but is contributing to the~~
16 ~~U.S. economy by paying her taxes, and spending over 10 hours a week volunteering at~~
17 ~~her church.~~

18 ~~30. Plaintiff Laura Madera (“Madera”) is a lawful permanent resident and is currently~~
19 ~~pregnant. Plaintiff Madera is very concerned about being profiled for appearing to be~~
20 ~~Latina. Her husband is undocumented. If Plaintiff Madera is arrested she will likely not~~
21 ~~be able to become a US citizen. Unless the law is permanently enjoined and declared~~
22 ~~invalid, Plaintiff fears she and her husband will be arrested. Her family is likely to lose~~

1 ~~their home, and her daughter will be unable to attend US schools, because they will be~~
2 ~~forced to leave the area.~~

3 ~~31. Plaintiff Miranda plans to become a naturalized citizen as soon as possible, but~~
4 ~~anticipates that the required process will take at least several months. Once she becomes~~
5 ~~a naturalized citizen, Plaintiff plans to sponsor her husband for lawful permanent~~
6 ~~residency. He will be able to obtain lawful permanent residency if his wife is not arrested.~~

7 ~~32. 25.~~ Plaintiff John Doe 1 was approved refugee status last year. Under federal
8 immigration law, he is not ~~He was not~~ required to carry an alien registration documenta
9 lawful permanent resident card or work permit under federal regulations. He is afraid of
10 being arrested because he looks Latino and is an immigrant, but has no alien registration
11 document to show law enforcement when required to produce one. ~~He looks Latino but is~~
12 ~~not required to carry a work permit.~~ His children have the same status. ~~Under~~ Unless the
13 law is enjoined, he will not take his children to school or go to work as he is afraid of
14 being arrested.

15 ~~33. 26.~~ Plaintiff John Doe 2 is an adult. He works in, and obtains goods and
16 services in, Phoenix, Arizona. Plaintiff John Doe 2 lost his Green Card. He has filed an
17 application to replace his Green Card. Plaintiff John Doe 2 has no other way to prove his
18 immigration status. Plaintiff John Doe 2 will be unable to prove that he is not an
19 “unauthorized alien” as that term is defined under the law until he receives his
20 replacement Green Card. Unless the law is permanently enjoined and declared invalid,
21 Plaintiff John Doe 2 will be unable to rent, work, or obtain goods and services in Phoenix
22 because he cannot prove his immigration status.

1 ~~34.~~ 27. Plaintiff John Doe 3 is currently employed and is a U.S. citizen. He lost
2 his passport. Plaintiff John Doe 3 was born in the United States. In accordance with the
3 new Arizona law, Plaintiff John Doe 3 is required to carry proof of his legal status in the
4 US. If he is stopped by police and asked for proof of residency, he can only show his
5 driver's license and birth certificate. He does not know whether he would have to
6 notarize his birth certificate in order to authenticate it. He is afraid of being arrested as he
7 looks Latino.

8 ~~35.~~ 28. Plaintiff Jane Doe 2 is a citizen of the United States born in Puerto Rico.
9 Her only English-language form of identification is a Social Security card. Plaintiff Jane
10 Doe 2 speaks very little English. Plaintiff Jane Doe 2 is afraid she will be arrested if she
11 leaves her home as she appears to be Latina. As a U.S.-born U.S. Citizen, Jane Doe's
12 status cannot be ascertained by direct or indirect reliance on the federal government's
13 immigration databases because these maintain data only on immigrants, not U.S.-born
14 citizens. Jane Doe ~~She~~ requires constant visits to the doctor, but is afraid of leaving her
15 home. Unless the law is permanently enjoined and declared invalid, Plaintiff Jane Doe 3
16 will be unable to live, work, or obtain goods and services in Phoenix, Arizona.

17 ~~36. Plaintiff Fermin Leon and his wife are undocumented immigrants. They both~~
18 ~~have US citizen children that are 16 and 18 years of age. Plaintiff Leon has a very~~
19 ~~successful business. Although Plaintiff Leon is now eligible to apply for cancellation of~~
20 ~~removal, the US department of Homeland Security has not called him in for an interview.~~
21 ~~He is afraid of working, as he looks Latino and believes he will be arrested. If he is~~
22 ~~arrested his children will have to leave the country also or will be forced to live in~~
23 ~~Mexico.~~

1 ~~37.~~ 29. Plaintiffs Siguenza, Rivera, ~~Miranda,~~ Herrera, Galindo, Madera, ~~Leon~~ and
2 John Does 1-3 and Jane Does ~~1-3~~ are collectively referred to herein as “Individual
3 Plaintiffs.”

4 ~~38.~~ 30. All Individual Plaintiffs desire to continue to live and work in Arizona ~~and~~
5 ~~the new law will prevent them from doing so.~~ but will be unable to do so without fear
6 and risk of unlawful questioning, arrest and detention unless the challenged provisions of
7 S.B. 1070 are declared invalid and permanently enjoined.

8
9 **Organizational Plaintiffs And Their Factual Allegations**

10 ~~39.~~ 31. Plaintiff La ~~Hermezo~~ Hermosa Church (“La Hermosa”) is an Arizona non-
11 profit organization. La ~~Hermezo’s~~ Hermosa’s primary purpose is to promote Christian
12 values and spread the gospel of Jesus Christ.

13 32. As a Church, La Hermosa’s religious mission is to reach out to and embrace all
14 members of the community; bring members of the community into the Church; minister
15 to the poor, sick and elderly; promote and perform acts of charity; nurture families; and
16 provide food, shelter and access to services, including by transportation, to those need---
17 all regardless of immigration status.

18 33. In order to comply with the challenged provisions of S.B. 1070, however, the
19 Church and its parishioners will have to go against their religious beliefs by limiting
20 certain of their activities (such as providing shelter and transportation to those in need)
21 based on an individual’s immigration status, or risk prosecution for harboring or
22 transporting individuals who are deemed “unauthorized aliens” or not carrying papers as
23 required under the Arizona law. Also, because of the documentation requirements and

1 criminal penalties imposed by S.B. 1070, certain parishioners will be unable or unwilling
2 to leave their houses to come to the Church, which interferes with the Church and its
3 members' right to freedom of association in the practice of their religion.

4 **34.** As a result of S.B. 1070, the Church has had to divert resources from its religious
5 mission to defending against the harms caused by this legislation both to the Church and
6 to the community it serves.

7 **35.** La ~~Hermoza~~-Hermosa does not require its members to prove their citizenship,
8 residency or immigration status as a condition to membership. The law has created great
9 hostility towards the Latino community in Arizona and therefore adversely affects the
10 work La Hermosa performs in Phoenix and for Phoenix residents, forcing it to divert
11 resources away from its mission. ~~La Hermoza performs in Phoenix and for Phoenix~~
12 ~~residents.~~ La ~~Hermoza's~~-Hermosa's membership and constituency (herein, collectively
13 "members") includes individuals - many but not all of whom are Latino - who reside and
14 who are employed in and around Phoenix, some of whom have school-aged children. The
15 membership includes persons who have Spanish as their native tongue with a limited
16 proficiency in English. The interests La ~~Hermoza~~-Hermosa seeks to protect through this
17 action are germane to its purpose, and neither the claims asserted nor the relief requested
18 herein require the personal participation of La ~~Hermoza's~~-Hermosa's members.

19 ~~40.~~ **36.** Plaintiff ~~Conlamic~~-CONLAMIC Arizona is an Arizona non-profit
20 organization. ~~Plaintiff Conlamic is a non-profit organization~~ doing business in Arizona,
21 CONLAMIC has ~~and they have~~ over 30,000 affiliated churches throughout the United
22 States.

1 ~~41.—37.~~ ~~Conlamie Arizona's purpose is to promote the interests of its members~~
2 CONLAMIC's mission is to educate and empower Latino churches throughout the
3 United States so they can bring about effective Christian leadership in their communities.
4 Affiliated with over 30,000 Latino churches throughout the country, CONLAMIC serves
5 as a clearinghouse for information on issues that matter most to these churches, including
6 Christian education and values. ~~—Conlamie~~CONLAMIC does not require its individual
7 members to prove their citizenship, residency or immigration status as a condition to
8 membership. The law has generated great hostility towards the Latino community in
9 Arizona and therefore adversely affects the work ~~Conlamie~~CONLAMIC performs in
10 Arizona and for Arizona businesses and residents. As a result of Arizona's new law,
11 CONLAMIC has been forced to divert its resources away from its core mission to spend
12 countless hours educating members about the effects and impact of the law.

13 ~~42.—38.~~ ~~Conlamie's~~CONLAMIC's membership and constituency (herein,
14 collectively "members") includes individuals – many, but not all, are Latino or who
15 service Latino and other customers -who reside or operate businesses in and around
16 Arizona, some of whom have school-aged children. The membership includes over 300
17 Arizona Pastors.

18 ~~43.—39.~~ ~~Conlamie's~~CONLAMIC's membership includes individuals who have
19 Spanish as their native tongue with a limited proficiency in English.

20 ~~44.—40.~~ The interests ~~Conlamie~~CONLAMIC seeks to protect through this action
21 are germane to its purpose, and neither the claims asserted nor the relief requested herein
22 require the personal participation of ~~Conlamie's~~ CONLAMIC's members.

23 *Defendants*

1 ~~45.~~ 41. At all relevant times described herein, Arizona acted through its duly
2 authorized agent Governor Jan Brewer, and any other state employees she may designate
3 in accordance with Arizona law.

4 ~~46.~~ 42. At all times alleged herein, Arizona's officials, employees and agents were
5 acting under color of state law.

6 ~~47.~~ 43. Defendant Arizona is a state of the USA.

7 ~~48.~~ 44. Defendant Jan Brewer is the governor of Arizona and is being sued in ~~his~~
8 her official capacity.

9 ~~49.~~ 45. Defendant Terry Goddard is the Attorney General for the State of Arizona.
10 As such, Defendant Goddard is responsible for the enforcement of SB 1070 within the
11 state of Arizona. Defendant Goddard is sued in his official capacity.

12 ~~50.~~ 46. Defendant Sheriff Joseph Arpaio is the County Sheriff of Maricopa
13 County, Arizona. As such, Defendant Arpaio is responsible for the enforcement of SB
14 1070 within Maricopa County. Defendant Arpaio is sued in his official capacity.

15 ~~51.~~ 47. Defendant Richard M. Romley is the County Attorney of Maricopa
16 County, Arizona. As such, Defendant Romley is responsible for the enforcement of SB
17 1070 within Maricopa County. Defendant Romley is sued in his official capacity.

18 V. FACTS

19 ~~52.~~ ~~On or about April 23, 2010, the state of Arizona passed a law, known as the~~
20 ~~“Anti Immigration Act.” Attached hereto and made a part hereof as Exhibit “B” is a copy~~
21 ~~of the law.~~

1 ~~53. — As a result of the passing of the amended law, plaintiffs have suffered.~~
2 ~~Specifically, many members of the class are afraid to go to work and countless others~~
3 ~~have fled the area.~~

4 ~~**CLASS ALLEGATIONS**~~

5 ~~— Plaintiffs reallege and incorporate Paragraphs 1 through 53 inclusive and file this~~
6 ~~as a Class Action for Declaratory and Injunctive Relief and allege:~~

7 ~~54. — Plaintiffs bring this action pursuant to Rule 23 (a) and (b)(1)(2) on behalf of~~
8 ~~themselves and all others similarly situated. The class consists of the following~~
9 ~~ascertainable members: all persons who currently reside in Arizona and find themselves~~
10 ~~to be negatively affected by the proposed unconstitutional law.~~

11 ~~55. — Defendants have acted, and will continue to act on grounds generally applicable~~
12 ~~to each member of the class, making appropriate final declaratory, injunctive and~~
13 ~~mandamus relief to the class as a whole.~~

14 ~~56. — Plaintiffs in the class are entitled to representation.~~

15 ~~57. — There exists a community of interest between Plaintiffs and members of their~~
16 ~~class in that there are questions of law and fact which are common to all. The Plaintiffs~~
17 ~~seek a determination of whether or not the amended ordinance is unconstitutional and as~~
18 ~~such should not be enforced.~~

19 ~~58. — Individual suits by each member of the class would be impractical because:~~

20 ~~(A) There exist common and identical issues of law and fact for all members of the class.~~

21 ~~(B) The number of individual suits would impose an undue burden of the Courts as there~~
22 ~~appear to be a voluminous amount of members;~~

1 ~~(C) Many members of the class are unaware of their right and/or are intimidated due to~~
2 ~~their status.~~

3 ~~59. A class action is superior to other available methods for the fair and efficient~~
4 ~~adjudication of this controversy.~~

5 ~~60. Upon information and belief no independent litigation has been brought by any~~
6 ~~members of the respective class against Defendants as to the issues raised in this~~
7 ~~complaint.~~

8 ~~61. Plaintiffs' counsels are experienced in class actions litigation and can adequately~~
9 ~~represent the interest of class members as well as the named Plaintiffs.~~

10 ~~62. As a result of the defendant's law, plaintiffs and the members of the class will~~
11 ~~continue to suffer.~~

12 ~~63. There exists no adequate remedy at law if the law is not overturned.~~

13 **DECLARATORY AND ~~INJUNCTION~~ INJUNCTIVE RELIEF ALLEGATIONS**

14 Plaintiffs reallege and incorporate paragraphs 1 through ~~53~~47 inclusive ~~and file this~~
15 ~~Declaratory Relief Action~~ and allege:

16
17 ~~64. 48.~~ There exists confusion as to Arizona's authority to pass and enforce the
18 challenged provisions of S.B. 1070 and whether the statute is otherwise unlawful and/or
19 unconstitutional~~such a law.~~

20 ~~65. 49.~~ WHEREFORE, Plaintiffs seek judicial clarification of the Arizona law.
21 An actual and substantial controversy exists between Plaintiffs and Defendants as to their
22 respective legal rights and duties. Plaintiffs contend that Defendants' actions violate the
23 constitutional rights of Plaintiffs and the proposed class. In violating Plaintiffs' rights

1 under the U.S. Constitution and federal statutes, Defendants are acting under color of law.
2 The Arizona law, and Defendants’ policies, practices and procedures implementing them,
3 have caused and will continue to cause irreparable injury to Plaintiffs and the proposed
4 class. Plaintiffs and the proposed class have no plain, speedy and adequate remedy at law
5 against the Arizona law and Defendants’ policies, practices and procedures implementing
6 them.

7 **CLAIMS FOR RELIEF**

8 **COUNT I. VIOLATION OF ~~SUBSTANTICE~~ SUBSTANTIVE DUE PROCESS**

9 **14TH AMENDMENT**

10 ~~66.~~ **50.** The foregoing allegations are repeated and incorporated as though fully set
11 forth herein.

12 ~~67.~~ **51.** The Fourteenth Amendment to the U.S. Constitution provides that “No
13 State shall. . . deprive any person of life, liberty, or property, without due process of law .
14 . . .” Plaintiffs ~~and the proposed class~~ have a liberty interest in being free from ~~detention~~
15 ~~absent a criminal conviction~~ unlawful, discriminatory or arbitrary questioning, arrest and
16 detention by local law enforcement. ~~Specifically, Plaintiffs and the proposed class have a~~
17 ~~liberty interest in being eligible for release on bond pending resolution of the criminal~~
18 ~~charges against them. The Arizona law and Defendants’ policies, practices and~~
19 ~~procedures implementing them violate substantive due process because they are not~~
20 ~~narrowly tailored and do not serve a compelling governmental interest. The Arizona law~~
21 ~~and Defendants’ policies, practices and procedures implementing them result in an~~
22 ~~impermissibly punitive regime of arrests and racial profiling in violation of substantive~~
23 ~~due process.~~

1 ~~68.~~ 52. For example, A.R.S. § ~~11-1051~~ 13-3883 grants Arizona police officers
2 authority to conduct warrantless arrests of persons ~~for~~ whom the officer has probable
3 cause to believe have committed any public offense that makes those persons deportable.
4 This appears to be an attempt to create a completely independent state arrest authority for
5 administrative violations of federal law. In essence, it is the “criminalization” of certain
6 portions of immigration law, which, in and of itself, is civil. The issue was previously
7 addressed in *Gonzales v. City of Phoenix*, 722 F.2d 468, (9th Cir 1983) (overruled in part
8 on other grounds by *Hodgers-Durgin v. de la Vina*, 199 F.3d 1037 (9th Cir. 1999)). The
9 ~~ninth~~ Ninth ~~e~~ Circuit held that while Arizona could authorize Peoria to enforce the
10 criminal provisions of the immigration law, the court “~~the court~~ firmly emphasize[d] that
11 this authorization is limited to criminal violations. Many of the problems arising from
12 implementation of the City's written policies have derived from a failure to distinguish
13 between civil and criminal violations of the Act.” 722 F.2d at 476. This portion of the
14 Arizona law attempts to criminalize ~~enforce~~ civil administrative violations of ~~the~~ federal
15 law. It will lead to countless arrests of individuals who are undocumented but have not
16 violated criminal provisions of the immigration law. ~~This would allow for unlawful~~
17 ~~arrests.” The Peoria Police Department obscured the difference between civil~~
18 ~~administrative violations and criminal violations of immigration law. If it was not~~
19 ~~allowed in *Gonzales*, it should not be allowed in the case at bar.~~

20 53. Additionally, Section 2 of S.B. 1070 permits state and local law enforcement
21 officials to seize, detain, arrest and transfer individuals without appropriate procedures,
22 thereby depriving Plaintiffs of their liberty without due process of law. Section 2 is also
23 unconstitutionally vague. The terms “reasonable suspicion,” “reasonable attempt,”

1 “unlawfully present” and “determine the immigration status” fail to provide meaningful
2 guidance to law enforcement officers as to how to implement this provision, creating an
3 unacceptable risk of arbitrary and discriminatory enforcement. The provision of Section
4 5 that makes it unlawful for any person who is “in violation of a criminal offense” to
5 transport or move “an alien” in Arizona “in furtherance of the [person’s] illegal presence”
6 with knowledge or reckless disregard that “the alien has come to, has entered or remains
7 in the United States in violation of law,” is vague and violates due process. Section 10’s
8 use of these terms is also vague and unconstitutional.

9 **54.** The provision of Section 5 that makes it unlawful for any person who is “in
10 violation of a criminal offense” to conceal, harbor or shield from detection “an alien” in
11 “any place,” including “any building or any means of transportation,” with knowledge or
12 reckless disregard that “the alien has come to, has entered or remains in the United States
13 in violation of law,” is vague and violates due process. Section 10’s use of these terms is
14 also vague and unconstitutional.

15 **55.** The phrase “the alien has come to, has entered or remains in the United States in
16 violation of law,” is also unduly broad, as some immigrants enter the United States
17 unlawfully but subsequently acquire lawful immigration status. The phrase’s vagueness
18 and ambiguity fail to provide sufficient notice of what is prohibited in order to allow
19 individuals to conform their conduct to the requirements of the law, and to prevent
20 arbitrary and discriminatory enforcement.

21 **56.** Section 6 of S.B. 1070 is unconstitutionally vague as well. The terms “any public
22 offense that makes the person removable” are not defined, do not provide meaningful
23 standards, require a federal immigration determination regarding removability that local

1 law enforcement are not equipped or authorized to make, and vest officers with unbridled
2 discretion, creating an unacceptable risk of arbitrary and discriminatory stops, detentions
3 and arrests.

4 **COUNT II. VIOLATION OF SUPREMACY CLAUSE**

5 ~~66.~~ 57. The foregoing allegations sections are repeated and incorporated as though
6 fully set herein.

7 ~~67.~~ 58. The Supremacy Clause mandates that federal law preempts state law in
8 any area over which Congress expressly or impliedly has reserved exclusive authority,
9 which is constitutionally reserved to the federal government, or where state law conflicts
10 or interferes with federal law. ~~Section A.R.S. §13-1509 will establish a separate state~~
11 ~~offense for any person to violate provisions of the federal immigration law regarding~~
12 ~~registration and carrying registration documents . 8 U.S.C. §§ 1304 (e), 1306 (a). The~~
13 ~~offenses vary from class one misdemeanors with six month jail time and \$500 fine to a~~
14 ~~class four (4) felony charge for those found in the U.S. after having accepted voluntary~~
15 ~~removal or been deported in the last 5 years.~~

16 ~~—— The Supremacy Clause of the US Constitution grants the federal government~~
17 ~~exclusive power to regulate our borders, and states do not have the right to create their~~
18 ~~own. For this reason alone, the law should be found unconstitutional.~~ 59. Sections 1, 2,
19 3, 5, 6 and 10 of S.B. 1070, as amended by H.B. 2162, are unconstitutional and
20 preempted by federal law because they attempt to regulate immigration, conflict with
21 federal laws and policies, usurp powers exclusively vested in the federal government,
22 attempt to legislate in fields occupied by the federal government, impose burdens and

1 penalties on legal residents not authorized by and contrary to federal law, and unilaterally
2 imposes burdens on the federal government's resources.

3 **60.** For example, Section 1 expresses the legislature's intent to regulate immigration,
4 criminalize civil provisions of federal immigration law, and adopt an immigration policy
5 that conflicts with the federal government's immigration policies and priorities, each in
6 violation of the Supremacy Clause.

7 **61.** Sections 2, 3 and 6 grant local law enforcement officers powers over enforcement
8 of federal immigration law, including the power to interrogate, arrest and detain aliens
9 relative to their immigration status. The power to enforce federal immigration law,
10 however, is exclusively the province of federal authorities, as Congress has demonstrated
11 through comprehensive legislation occupying the field of immigration enforcement. See,
12 e.g., 8 U.S.C. § 1357(g). The powers to question an individual about his or her
13 immigration status, to detain an individual pending a determination of immigration status,
14 and to arrest those in violation of immigration laws are powers that Congress has
15 expressly conferred only to federal immigration officers and their agents. See 8 U.S.C. §
16 1226 (detention and apprehension of aliens); id. § 1231 (detention and removal of aliens
17 ordered removed); id. § 1357(a)(1)-(2) (power of authorized immigration officers to
18 interrogate and arrest aliens). The state's attempt to confer these powers on state and
19 local law enforcement burdens and conflicts with federal law, and regulates the field of
20 immigration law enforcement which Congress has intended to occupy.

21 **62.** Sections 3, 5 and 10 aim to create state penalties and lead to state prosecutions for
22 violation of federal laws, intruding on federal law regulating that conduct under the

1 circumstances and in the manner deemed appropriate by Congress, see e.g., 8 U.S.C.
2 § 1324(a)(1)(A)(ii)-(iv), and imposing impermissible burdens and penalties.

3 **63.** Section 5's provisions criminalizing the harboring and transporting of certain
4 aliens further conflicts with federal law by failing to exempt *bona fide* religious
5 denominations and their agents from its reach as the comparable federal statute does. See
6 8 U.S.C. § 1324(a)(1)(C).

7 **COUNT III. VIOLATION OF FIRST AMENDMENT**

8 ~~**68.**—The forgoing allegations sections are repeated and incorporated as though fully set~~
9 ~~herein.~~

10 ~~**69.**—The Act would add a new section, A.R.S. § 13-2928, that makes it a class 1~~
11 ~~misdemeanor to attempt to hire or pick up day laborers to work at a different location if~~
12 ~~the driver is impeding the normal flow of traffic. It also makes it a misdemeanor for a~~
13 ~~worker to get into a car if it is impeding traffic. Finally, this Section would criminalize~~
14 ~~the solicitation of work (by a gesture or nod) by undocumented immigrants in any public~~
15 ~~place. In order to be subject to the first or second parts of this Section, the vehicle in~~
16 ~~question has to be obstructing traffic. This provision adds no value insofar as there are~~
17 ~~already laws established that address traffic hazards. It is also likely to be found~~
18 ~~unconstitutional by the courts because the third part singles out the speech of immigrant~~
19 ~~day laborers for criminalization. The solicitation of work has been found by courts across~~
20 ~~the country to be protected speech under the First Amendment. Lopez et al v. Town of~~
21 ~~Cave Creek.~~

22
23 **COUNT IV. VIOLATIONS OF SUPREMACY CLAUSE**

1 ~~70. — The foregoing allegations sections are repeated and incorporated as though fully~~
2 ~~set forth herein.~~

3 ~~71. — The Act would add a new section, A.R.S. § 13-2929, that makes it unlawful for~~
4 ~~any person who is “in violation of a criminal offense” to transport, move, conceal, harbor,~~
5 ~~shield from detection, or attempt to do any of the above, for any undocumented~~
6 ~~immigrant if the person knows or recklessly disregards the fact that the immigrant has~~
7 ~~entered or remained in the United States illegally. It also makes it a state crime to~~
8 ~~encourage or induce any immigrant to come, enter, or reside in the country illegally.~~

9 ~~72. — A person who violates this law would be subject to a class 1 misdemeanor and a~~
10 ~~fine of at least \$1,000, with additional penalties where the offense involves ten or more~~
11 ~~immigrants. Any means of transportation used in connection with the crime will be~~
12 ~~impounded. This provision is unnecessary because the exact same actions (transporting,~~
13 ~~moving, concealing, harboring, and shielding undocumented immigrants) are already~~
14 ~~prohibited under federal law where the person commits those acts with the intent to~~
15 ~~further the immigrant’s violation of the law. 8 U.S.C. § 1324(a)(1)(a).~~

16 ~~73. — Furthermore, Arizona peace officers have explicit authority to arrest anyone who~~
17 ~~violates the federal harboring law, 8 U.S.C. § 1324(e), and vehicles used to commit the~~
18 ~~offense may be seized. 8 U.S.C. § 1324(b). Courts have not permitted prosecutions under~~
19 ~~the federal statute where a person offers a ride or shelter to another person out of~~
20 ~~humanitarian concern rather than with the intent to further the violation, such as for a~~
21 ~~profit motive. There is also a specific provision in the federal statute exempting churches~~
22 ~~who provide room and board to members of their congregation serving as ministers or~~

1 missionaries. To the extent that the state law will be applied differently than the federal
2 law, it should be invalidated as violating the Supremacy Clause of the U.S. Constitution.

3
4 **COUNT V.**

5 **~~VIOLATIONS OF SUBSTANTIVE DUE PROCESS — FOURTEENTH AMENDMENT~~**

6 ~~74.~~— The foregoing allegations sections are repeated and incorporated as though fully
7 set forth herein.

8 ~~75.~~— Plaintiffs and the proposed class have a liberty interest in being free from
9 detention absent a criminal conviction. Specifically, Plaintiffs and the proposed class
10 have a liberty interest in being eligible for release on bond pending resolution of the
11 criminal charges against them.

12 ~~76.~~— The Arizona law and Defendants’ policies, practices and procedures
13 implementing them violate substantive due process because they are not narrowly
14 tailored and do not serve a compelling governmental interest.

15 ~~77.~~— The Arizona law and Defendants’ policies, practices and procedures
16 implementing them result in an impermissibly punitive regime of arrests and racial
17 profiling in violation of substantive due process.

18
19 **COUNT VI.**
20 **FOURTEENTH AMENDMENT**
21 **USE OF PROBABLE CAUSE STANDARD**
22 **VIOLATION OF PROCEDURAL DUE PROCESS**
23

24 ~~78.~~— The foregoing allegations sections are repeated and incorporated as though fully
25 set forth herein.

1 ~~79. Defendants' policies, practices, and procedures in implementing the new anti-~~
2 ~~immigration law, results in no bond decisions against Plaintiffs and the proposed class~~
3 ~~based solely on police officers' finding that there is probable cause to believe that they~~
4 ~~have "entered or remained in the United States illegally." Use of the "probable cause"~~
5 ~~standard in this context violates the Due Process Clause of the United States Constitution.~~

6 **COUNT III**

7 **FIRST AMENDMENT; FREEDOM OF RELIGION, ASSOCIATION**

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

10 64. The First Amendment to the U.S. Constitution provides that "Congress shall
11 make no law respecting an establishment of religion, or prohibiting the free exercise
12 thereof; or abridging the freedom of speech, or of the press; or the right of the people
13 peaceably to assemble, and to petition the Government for a redress of grievances." The
14 First Amendment's guarantees are applied to the States through the Fourteenth
15 Amendment.

16 65. The transportation and harboring provisions of S.B. 1070 violate the freedom of
17 religion and association by interfering with La Hermosa Church's and other parishioners'
18 ability to reach out to and embrace all members of the community; bring members of the
19 community into the Church; minister to the poor, sick and elderly; promote and perform
20 acts of charity; nurture families; and provide food, shelter and access to services,
21 including by transportation, to those need---all regardless of immigration status. In order
22 to comply with the challenged provisions of S.B. 1070, however, the Church and
23 parishioners will have to go against their religious beliefs by limiting certain of their

1 activities (such as providing shelter and transportation to those in need) based on an
2 individual's immigration status, or risk prosecution for harboring or transporting
3 individuals who are deemed "unauthorized aliens" or not carrying papers as required
4 under the Arizona law. Also, because of the documentation requirements and criminal
5 penalties imposed by S.B. 1070, certain parishioners will be unable or unwilling to leave
6 their houses to come to the Church, which interferes with the Church and its members'
7 right to freedom of association in the practice of their religion.

8 **COUNT IV**

9 **FOURTEENTH AMENDMENT; EQUAL PROTECTION**

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

12 **66.** The Fourteenth Amendment to the U.S. Constitution provides that "No State shall
13 ... deny to any person within its jurisdiction the equal protection of the laws."

14 **67.** S.B. 1070 was enacted with the purpose and intent to discriminate against racial
15 and national origin minorities, including Latinos, on the basis of race and national origin.

16 **68.** S.B. 1070 impermissibly and invidiously targets Plaintiffs who are racial and
17 national origin minorities, including Latinos, residing or traveling in Arizona and subjects
18 them to stops, detentions, questioning, and arrests based on their race and/or national
19 origin.

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

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

4
5 **PRAYER FOR RELIEF**

6 WHEREFORE, in light of the foregoing facts and arguments, Plaintiffs reallege and
7 incorporate paragraphs 1 through ~~53~~ 70 inclusive and file this and request that this court:

8 a. Assume jurisdiction over this matter;

9 ~~b. Certify a class as described above, pursuant to Plaintiffs' forthcoming motion~~
10 ~~for class certification;~~

11 ~~e.b.~~ Declare that the Arizona law is unconstitutional under the Supremacy clause,
12 the ~~d~~Due ~~p~~Process ~~e~~Clause of the Fourteenth Amendment, the Equal
13 Protection Clause and the First Amendment's right to freedom of religion and
14 association ~~speech~~;

15 ~~d.c.~~ Declare that the law is preempted by federal law and the plenary power of
16 Congress to regulate immigration;

17 ~~e.d.~~ Enjoin Defendants from enforcing the law;

18 ~~f.e.~~ Grant Plaintiffs' reasonable attorneys' fees, costs, and other expenses pursuant
19 to 42 U.S.C. ~~See-~~ § 1988; and

20 ~~g.f.~~ Grant such other relief as the Court may deem appropriate.

21
22 Dated: ~~June 9, 2010~~ August 25, 2010

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**NATIONAL COALITION OF LATINO
CLERGY AND CHRISTIAN LEADERS
("CONLAMIC") PHOENIX, ARIZONA,
ET AL.**

By:

RESPECTFULLY SUBMITTED.

/s/ Tania Galloni
FLORIDA IMMIGRANT ADVOCACY CENTER

/s/ Ben R. Miranda
LAW OFFICE OF BEN R. MIRANDA

/s/ William J. Sanchez
SANCHEZ LAW, LLC

Attorneys for Plaintiffs