

1 John J. Bouma (#001358)
 Robert A. Henry (#015104)
 2 Joseph G. Adams (#018210)
 SNELL & WILMER L.L.P.
 3 One Arizona Center
 400 E. Van Buren
 4 Phoenix, AZ 85004-2202
 Phone: (602) 382-6000
 5 Fax: (602) 382-6070
 jbouma@swlaw.com
 6 bhenry@swlaw.com
 jgadams@swlaw.com

7 and

8 Joseph A. Kanefield (#015838)
 9 Office of Governor Janice K. Brewer
 1700 W. Washington, 9th Floor
 10 Phoenix, AZ 85007
 Telephone: (602) 542-1586
 11 Fax: (602) 542-7602
 jkanefield@az.gov

12 *Attorneys for Defendant Janice K. Brewer,*
 13 *Governor of the State of Arizona*

14 **IN THE UNITED STATES DISTRICT COURT**
 15 **FOR THE DISTRICT OF ARIZONA**

16 Roberto Javier Frisancho,
 17 Plaintiff *pro se*,

18 v.

19 Jan Brewer, in her official capacity as
 20 Governor of the State of Arizona; and
 Terry Goddard, in his official capacity
 21 as Attorney General of the State of
 Arizona,

22 Defendants.
 23

No. CV10-00926-PHX-SRB

**REPLY IN SUPPORT OF MOTION
 TO TRANSFER CASES TO A
 SINGLE JUDGE**

No. CV10-00249-TUC-DCB

No. CV10-00951-PHX-ROS

24 Defendant Governor Janice K. Brewer (“Governor Brewer”) submits this reply in
 25 support of her motion to transfer related cases raising the same issues to a single judge.
 26 There are now five actions pending in the U.S. District Court for the District of Arizona
 27 that challenge the “Support Our Law Enforcement and Safe Neighborhoods Act,”
 28 Arizona Senate Bill 1070, as amended by House Bill 2162 (“SB 1070”). Governor

1 Brewer respectfully submits that all five cases – including the two cases that are the
2 subject of this motion – should be handled by a single judge.

3 **I. Overview of Related Cases.**

4 Five cases challenging the validity of SB 1070 have been filed in the U.S. District
5 Court for the District of Arizona in the following order:

6 A. ***Roberto Javier Frisancho v. Brewer, et al.***, Case No. CV10-00926-PHX-
7 SRB (“*Frisancho*”), filed on April 27, 2009. The case is assigned to the Hon. Susan R.
8 Bolton. The complaint filed by this out-of-state, *pro se* plaintiff has not been updated
9 since SB 1070 was amended on April 30, 2010. Governor Brewer’s response is due to be
10 filed by June 11, 2010. Governor Brewer anticipates filing a motion to dismiss based on
11 plaintiff’s lack of standing to challenge SB 1070.

12 B. ***Martin H. Escobar v. Jan Brewer, et al.***, Case No. CV10-00249-TUC-
13 DCB (“*Escobar*”), filed on April 29, 2010 at 7:56 a.m. The case is assigned to the Hon.
14 David C. Bury. Plaintiff has lodged a motion for preliminary injunction on June 3, 2010.
15 The City of Tucson filed a motion for preliminary injunction on June 7, 2010.

16 C. ***National Coalition of Latino Clergy and Christian Leaders v. State of***
17 ***Arizona, et al.***, Case No. CV10-00943-PHX-SRB (“*National Coalition*”), filed on April
18 29, 2010 at 1:43 p.m. The case is assigned to the Hon. Susan R. Bolton. An amended
19 complaint was filed on June 9, 2010 but has not yet been served.

20 D. ***David Salgado v. Jan Brewer, et al.***, Case No. CV10-00951-PHX-ROS
21 (“*Salgado*”), filed on April 29, 2010 at 3:54 p.m. The case is assigned to the Hon. Roslyn
22 O. Silver. Plaintiffs’ motion for preliminary injunction was deemed filed on June 9,
23 2010. Governor Brewer’s response to the amended complaint is due to be filed by June
24 11, 2010.

25 F. ***Friendly House v. Whiting, et al.***, Case No. CV10-01061-PHX-MEA
26 (“*Friendly House*”), filed on May 17, 2010. The case is presently assigned to Magistrate
27 Judge Mark E. Aspey. Plaintiffs lodged a motion for preliminary injunction on June 4,
28 2010. Plaintiffs have moved to transfer the case to Judge Bolton.

1 **II. The Related Cases Should Be Heard By a Single Judge.**

2 In their response brief, the attorneys for the plaintiffs in *Escobar* and *Salgado*
3 (who now represent both plaintiffs jointly) agree that those cases should be heard by a
4 single judge. These two cases, along with the other three pending cases, all raise
5 constitutional and other challenges to SB 1070. There is no apparent dispute that
6 transferring the *Escobar* and *Salgado* cases to a single judge would be more efficient than
7 litigating the cases in separate courts, would permit a single judge to coordinate the
8 multiple motions for preliminary injunction that have now been filed, and would avoid
9 “the potential of inconsistent outcomes.” See *BAE Systems Mobility & Protection*
10 *Systems, Inc. v. Armorworks Enterprises, LLC*, No. CV08-1697-PHX-JAT, 2009 U.S.
11 Dist. LEXIS 35920, at *4 (D. Ariz. Apr. 14, 2009) (applying LRCiv 42.1).

12 However, the *Escobar* and *Salgado* plaintiffs assert that the cases should be
13 transferred to Judge Silver rather than Judge Bolton (who already has two of the related
14 cases) or Judge Bury (who has the first-filed case *vis-à-vis Escobar* and *Salgado*).
15 Governor Brewer takes no position on which judge would be best suited to hear the cases.
16 Governor Brewer stands ready to litigate the cases before any of the district court judges
17 who are assigned to these cases. No matter which judge is assigned, Governor Brewer
18 submits that it would strongly serve the public interest to transfer these cases to a single
19 judge on an expedited basis. Now that at least four motions for preliminary injunction
20 challenging SB 1070 have been filed or lodged with the Court in various cases, it is
21 imperative that a single judge be assigned to all related cases on an expedited basis for
22 purposes of coordinating briefing schedules on preliminary injunction motions, any
23 hearings that the Court wishes to schedule, and other case management tasks.

24 Plaintiffs characterize *Salgado* as the presumptive “lead case,” but there is little
25 support for such a distinction. In fact, the *Escobar* case was filed prior to *Salgado*. Both
26 cases were filed on the same day, April 29, 2010. Plaintiffs’ counsel filed the *Escobar*
27 case at 7:56 a.m. in the Tucson Division, which was assigned to Judge Bury. Counsel
28 then filed a separate complaint in *Salgado* at 3:54 p.m. in the Phoenix Division, which

1 was assigned to Judge Silver.¹ Governor Brewer was served with the *Salgado* case on
2 May 17, 2010; the same lawyers waited until June 2, 2010 to serve Governor Brewer
3 with the *Escobar* complaint.

4 Finally, as the Court is aware, there is a later-filed case also challenging SB 1070
5 that is not the subject of this motion to transfer. *See Friendly House v. Whiting*, Case No.
6 CV10-01061-PHX-MEA (“*Friendly House*”), filed on May 17, 2010. Governor Brewer
7 is not a defendant in the *Friendly House* case but she has moved to intervene in that case.
8 That case is presently assigned to Magistrate Judge Aspey, though the plaintiffs have
9 moved to transfer the action to Judge Bolton. The plaintiffs in that case also lodged a
10 motion for preliminary injunction with the Court on June 4, 2010. Governor Brewer
11 agrees that the *Friendly House* action also should be handled by a single judge who also
12 hears the other related cases.

13 **III. Conclusion.**

14 In sum, no party to have appeared in any of the related cases to date has expressed
15 any opposition to having a single judge handle the cases. In light of the recent filing or
16 lodging of preliminary injunction motions in various cases, Governor Brewer respectfully
17 renews her request to have these related cases assigned to a single judge on an expedited
18 basis.

19 Respectfully submitted this 10th day of June, 2010.

20 SNELL & WILMER L.L.P.

21
22 By s/ John J. Bouma
23 John J. Bouma
24 Robert A. Henry
25 Joseph G. Adams
26 One Arizona Center
27 400 E. Van Buren
28 Phoenix, AZ 85004-2202

¹ In their initial complaints, one set of plaintiffs’ attorneys was counsel of record in the *Escobar* case and another law firm was counsel of record in *Salgado*. In their amended complaints, the two groups of plaintiffs’ lawyers joined together and all of these lawyers are now counsel of record for both the *Escobar* and *Salgado* cases.

1
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
27
28

and

By s/ Joseph A. Kanefield, with permission
Joseph A. Kanefield
Office of Governor Janice K. Brewer
1700 W. Washington, 9th Floor
Phoenix, AZ 85007

*Attorneys for Defendant Janice K. Brewer,
Governor of the State of Arizona*

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2010, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants on record.

I hereby certify that on June 10, 2010, I served the attached document by U.S. mail on the following, who is not a registered participant of the CM/ECF System:

Roberto Javier Frisancho
1311 Delaware Avenue., S.W., Apt. S 337
Washington, D.C. 20024

s/ John J. Bouma

11607408