

Snell & Wilmer

LLP
LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000

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

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

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

15 Roberto Javier Frisancho,
16
Plaintiff *pro se*,
17
v.
18 Jan Brewer, in her official capacity as
Governor of the State of Arizona; and
19 Terry Goddard, in his official capacity
as Attorney General of the State of
20 Arizona,
21
Defendants.

No. CV-10-926-PHX-SRB

**GOVERNOR BREWER'S
RESPONSE TO THE CITIES OF
FLAGSTAFF, TOLLESON, SAN
LUIS, AND SOMERTON'S JOINDER
IN REQUESTS FOR
CONSOLIDATION**

22
23 Defendant Janice K. Brewer ("Governor Brewer") hereby responds to the Joinder
24 in Requests for Consolidation (the "Joinder") filed by the Cities of Flagstaff, Tolleson,
25 San Luis, and Somerton's (collectively, the "Cities") in this case and the four other related
26 cases pending in this District Court. The Cities are not parties to any of these cases, but
27 have moved to intervene in the action captioned *Escobar v. Brewer, et al.*, CV10-
28

1 00240-TUC-DCB¹.

2 In the Joinder, the Cities stated that they are joining “Defendant Jan Brewer’s
3 Motion to Consolidate this matter with the *Escobar* matter” and other cases. This
4 statement is not accurate. Governor Brewer has not moved to consolidate any cases.
5 Instead, Governor Brewer has moved to *transfer* two related cases (the *Escobar* and
6 *Salgado*² cases) to this Court for the purpose of having a single judge handle all cases that
7 challenge the validity of SB 1070.

8 There are currently three pending motions that relate to transfer or consolidation of
9 these related cases:

- 10 1. Plaintiffs’ motion to transfer the *Friendly House*³ case to this Court (filed on
11 May 21, 2010, doc. 8);
- 12 2. Governor Brewer’s motion to transfer the *Salgado* and *Escobar* cases to this
13 Court (filed on May 28, 2010, doc. 13); and
- 14 3. Plaintiffs’ motion to transfer and consolidate the *Escobar* and *Salgado* cases
15 only (filed on June 4, 2010, doc. 20 in the *Escobar* case). In that motion,
16 plaintiffs requested that Judge Bury transfer the *Escobar* case to Judge
17 Silver, who is assigned to the *Salgado* case, and that those two cases be
18 consolidated. That motion is not directed at the three other related cases.

19 Although there is broad consensus among many parties in the related cases that the
20 cases should be transferred to a single judge, no party has moved for consolidation of all
21 related cases. That being said, Governor Brewer does not oppose consolidation of the
22 claims raised by the plaintiffs in the *Escobar* and *Salgado* cases, both of which are
23 brought by police officers (in Tucson and Phoenix, respectively) who are represented by
24

25 ¹ Although the Cities’ motion to intervene has not yet been ruled on, the Cities
nevertheless filed their Joinder.

26 ² “*Salgado*” refers to the case captioned *Salgado v. Brewer, et al.*, Case No. CV10-00951-
27 PHX-ROS, which is now pending before the Hon. Roslyn O. Silver.

28 ³ “*Friendly House*” refers to the case captioned *Friendly House v. Whiting, et al.*, CV10-
01061-PHX-JWS, which is now pending before the Hon. John W. Sedwick.

1 the same counsel. However, the *Escobar* case also contains a cross-claim filed by the
2 City of Tucson against Governor Brewer and the State of Arizona. The proposed pleading
3 lodged by the Cities in connection with their motion to intervene in *Escobar* is
4 substantially similar to the City of Tucson's cross-claim. Governor Brewer submits that
5 these claims (and potential claims) raised by the Cities and the City of Tucson raise
6 distinct issues pertaining to local governments that should not be consolidated with the
7 claims raised by the plaintiff police officers in *Escobar* and *Salgado*. Accordingly, at a
8 minimum, Governor Brewer submits that the Court should resolve preliminary issues,
9 such as these cities' standing, before consolidating the City of Tucson's claims (*i.e.*, its
10 cross-claims in *Escobar*) and any of the claims of the Cities (if their motion to intervene is
11 ultimately granted) with any of the other cases.⁴

12 Respectfully submitted this 24th day of June, 2010.

13 SNELL & WILMER L.L.P.

14
15 By s/John J. Bouma
16 John J. Bouma
17 Robert A. Henry
18 Joseph G. Adams
19 One Arizona Center
20 400 E. Van Buren
21 Phoenix, AZ 85004-2202

22 and

23 By s/Joseph A. Kanefield with permission
24 Joseph A. Kanefield
25 Office of Governor Janice K. Brewer
26 1700 W. Washington, 9th Floor
27 Phoenix, AZ 85007

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

⁴ Governor Brewer will be filing the appropriate motion to challenge the City of Tucson's standing shortly.

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 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 and served the 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

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