

Linton Joaquin\*  
 Karen C. Tumlin\*  
 Shiu-Ming Cheer\*  
 Melissa S. Keaney\*  
 NATIONAL IMMIGRATION LAW  
 CENTER  
 3435 Wilshire Boulevard, Suite 2850  
 Los Angeles, California 90010  
 Telephone: (213) 639-3900  
 Facsimile: (213) 639-3911  
*joaquin@nilc.org*  
*tumlin@nilc.org*  
*cheer@nilc.org*  
*keaney@nilc.org*

Omar C. Jadwat\*  
 Andre Segura\*  
 Elora Mukherjee\*  
 AMERICAN CIVIL LIBERTIES UNION  
 FOUNDATION  
 125 Broad Street, 18th Floor  
 New York, New York 10004  
 Telephone: (212) 549-2660  
 Facsimile: (212) 549-2654  
*ojadwat@aclu.org*  
*asegura@aclu.org*  
*emukherjee@aclu.org*

Cecillia D. Wang\*  
 Katherine Desormeau\*  
 AMERICAN CIVIL LIBERTIES  
 UNION FOUNDATION IMMIGRANTS'  
 RIGHTS PROJECT  
 39 Drumm Street  
 San Francisco, California 94111  
 Telephone: (415) 343-0775  
 Facsimile: (415) 395-0950  
*cwang@aclu.org*  
*kdesormeau@aclu.org*

Darcy M. Goddard (USB No. 13426)  
 Esperanza Granados (USB No. 11894)  
 AMERICAN CIVIL LIBERTIES  
 UNION OF UTAH FOUNDATION, INC.  
 355 North 300 West  
 Salt Lake City, Utah 84103  
 Telephone: (801) 521-9862  
 Facsimile: (801) 532-2850  
*dgoddard@acluutah.org*  
*egrados@acluutah.org*

Bradley S. Phillips\*+  
 MUNGER, TOLLES & OLSON LLP  
 355 South Grand Avenue  
 Thirty-Fifth Floor  
 Los Angeles, CA 90071-1560  
 Telephone: (213) 683-9100  
 Facsimile: (213) 687-3702

(\* Pro hac vice motion pending)  
 (+ Counsel for all plaintiffs except SEIU and  
 Workers' United)

**UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF UTAH  
 CENTRAL DIVISION**

Utah Coalition of La Raza, et al.,

Plaintiffs,

v.

Governor Gary Herbert and Attorney General  
 Mark Shurtleff,

Defendants.

**DOE PLAINTIFFS' MOTION FOR  
 LEAVE TO FILE DECLARATIONS  
 UNDER SEAL**

Case No. 2:11-cv-00401-BCW

Judge: Brooke C. Wells

## **PRELIMINARY STATEMENT**

Pursuant to DUCiv R 5-2(a), Plaintiffs Jane Doe #1, John Doe #1, and John Doe #2 (collectively, “Doe Plaintiffs”) respectfully request leave to submit under seal their declarations in support of: (i) the Doe Plaintiffs’ Motion for Leave to Proceed Under Pseudonyms (“Doe Motion”); and (ii) Plaintiffs’ Motion for Preliminary Injunction.

## **ARGUMENT**

As explained more fully in the Doe Motion (docket no. 19) and Memorandum in Support (docket no. 20), public disclosure of the Doe Plaintiffs’ identities and participation in this lawsuit would seriously jeopardize the very constitutional protections they and the other plaintiffs seek to vindicate. The Doe Plaintiffs—who are all either undocumented or have family members who are undocumented—reasonably fear that, if their identities were to become public, there would be an increased risk that they or their family members would be subjected to unconstitutional detention by state or local law enforcement officials acting under the auspices of HB 497. They also fear that they or their family members could suffer adverse immigration consequences, up to and including immigration detention and removal if their identities were revealed. Moreover, given the heated debate over immigration both in Utah and in the United States as a whole, the Doe Plaintiffs fear harassment and even physical harm if their identities and personal stories are disclosed publicly in connection with this lawsuit.

Under the facts of this case, the Doe Plaintiffs’ concerns are justified, and provide ample basis not just for the Court to grant them leave to file their declarations under seal but also for the

Court to grant the pending Doe Motion allowing them to proceed under pseudonyms.<sup>1</sup> *See, e.g., Lozano v. Hazleton*, 496 F. Supp. 2d 477, 508-09 (M.D. Pa. 2007), *aff'd in part*, 620 F.3d 170; *Keller v. Fremont*, No. 10-0270, 2011 WL 41902, \*2 (D. Neb. Jan. 5, 2011); *see also EEOC v. BICE of Chicago*, 229 F.R.D. 581, 583 (N.D. Ill. 2005) (granting protective order because deposition “questions about immigration status are oppressive [and] . . . constitute a substantial burden on the parties”).

The public will not be adversely affected, and the defendants will suffer no prejudice, if the Doe Plaintiffs are granted leave to submit their declarations under seal. *See, e.g., Doe v. Barrow County, Georgia*, 219 F.R.D. 189, 193 (N.D. Ga. 2003) (“The resolution of the underlying constitutional issue in this case . . . will be decided in an open and public forum. Should this case progress to trial, the public will be free to attend the proceedings. . . . In the end, the only thing potentially being shielded from the public is plaintiff’s name and any court proceedings or opinions that might be necessary to determine standing.”); *S. Methodist Univ. Ass’n v. Wynne & Jaffe*, 599 F.2d 707, 713 (5th Cir. 1979) (noting that lawsuits “challenging the constitutional, statutory, or regulatory validity of government activity . . . involve no injury to the Government’s reputation”).

The Doe Plaintiffs’ identities are irrelevant to the constitutional claims alleged by them and the other plaintiffs. If the Court grants this motion and the Doe Plaintiffs are permitted to file their declarations under seal, they are willing concurrently to file and make available to the

---

<sup>1</sup> Indeed, if the Court determines to grant the Doe Motion, then the Doe Plaintiffs would necessarily have to file their declarations under seal in order to protect the rights established by that ruling.

defendants and to the public redacted copies of their declarations that will omit only their identifying information.<sup>2</sup>

### CONCLUSION

For the foregoing reasons, the Doe Plaintiffs respectfully request that their Motion For Leave to Submit Declarations Under Seal be granted.

Dated: May 4, 2011

Respectfully submitted,

/s/ Darcy M. Goddard  
AMERICAN CIVIL LIBERTIES UNION  
OF UTAH FOUNDATION, INC.

/s/ Karen C. Tumlin  
NATIONAL IMMIGRATION LAW CENTER

/s/ Cecillia D. Wang  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION, IMMIGRANTS'  
RIGHTS PROJECT

/s/ Elora Mukherjee  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION, RACIAL JUSTICE PROGRAM

/s/ Bradley S. Phillips  
MUNGER, TOLLES & OLSON LLP

---

<sup>2</sup> If the Court determines that the Doe Plaintiffs should be permitted to proceed under pseudonyms, but nonetheless determines that the defendants should receive unredacted copies of the Doe Plaintiffs' declarations, then the Doe Plaintiffs respectfully request the entry of a protective order precluding the defendants and their counsel from sharing that information with any third party.