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Counsel for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE STATE OF ARIZONA

MARTIN H. ESCOBAR

Plaintiff,

v.

JAN BREWER, Governor of  
the State of Arizona, in her  
Official and Individual  
Capacity, the City of Tucson,  
a municipal corporation, and  
Barbara LaWall, County  
Attorney, Pima County,

Defendants.

No. CV 10-249 TUC DCB

**FIRST AMENDED COMPLAINT**

(Action for Declaratory and Injunctive Relief)

Plaintiff alleges:

**I. JURISDICTION**

1. Jurisdiction is conferred on this Court by 28 U.S.C. § 1331.

**II. VENUE**

2. Venue is proper in the United States District Court for the District of Arizona under 28 U.S.C. §1391(b).

### III. PARTIES

3. Plaintiff is a naturalized citizen of the United States and a resident of the State of Arizona living in Pima County within the geographic boundaries of the City of Tucson.
4. Defendant Jan Brewer is the Governor of the State of Arizona, and as such is the highest ranking state constitutional officer whose powers as the chief executive include the approval of legislation passed by the Arizona State Legislature.
5. The City of Tucson is a municipal corporation, which exists pursuant to statutory authority provided by the Legislature of the State of Arizona.
6. Barbara LaWall is the County Attorney for Pima County.

### IV. PLAINTIFF'S ACTION

7. This is an action seeking equitable relief against the "Support Our Law Enforcement and Safe Neighborhoods Act," Senate Bill 1070, as amended by House Bill 2162 (the "Act"), because its enforcement would violate Plaintiff's rights under the Fourteenth Amendment to the Constitution of the United States, and the Act is preempted under the supremacy clause of Article VI of the Constitution of the United States by the Immigration and Nationality Act, as amended. See, e.g., 8 U.S.C. §§1252c(a), 1304(e), and 1357(g).
8. Plaintiff asserts this action pursuant to the Civil Rights Act of 1871, 42 U.S.C. §1983, and the Declaratory Judgment Act of 1934, 28 U.S.C. §2201.

### V. GENERAL ALLEGATIONS

9. Plaintiff is Hispanic, and bilingual in English and Spanish.
10. Plaintiff is employed as a permanent Police Officer with the City of Tucson for the Tucson Police Department who holds the current rank of Lead Patrol Officer.
11. Defendant Jan Brewer is the Governor of Arizona.
12. Acting in her official capacity as the Governor of Arizona, on April 23, 2010,

- 1 Governor Brewer elected to sign into law the “Support Our Law Enforcement  
2 and Safe Neighborhoods Act,” Senate Bill 1070.
- 3 13. Once again acting in her official capacity as the Governor of Arizona, on April  
4 30, 2010, Governor Brewer elected to sign into law various amendments to the  
5 “Support Our Law Enforcement and Safe Neighborhoods Act” in the form of  
6 House Bill 2162.
- 7 14. A true and correct copy of the Act (as amended) is attached hereto as Exhibit  
8 A.
- 9 15. Had Governor Brewer exercised her authority to veto the Act, it would not have  
10 become law.
- 11 16. In her capacity as Governor of Arizona, Governor Brewer has a legal obligation  
12 under the Arizona Constitution to ensure that the laws of Arizona “shall . . . be  
13 faithfully executed.” See Ariz. Const. Article 5, §4.
- 14 17. Correspondingly, Governor Brewer is statutorily authorized to “direct” the  
15 Attorney General of Arizona “in any challenge” of the Act in state or federal  
16 court. House Bill 2162 §8A.
- 17 18. Governor Brewer also has the statutory authority to “direct [legal] counsel other  
18 than the attorney general to appear on behalf of [Arizona] to defend any  
19 challenge” of the Act. House Bill 2162 §8B.
- 20 19. Thus, Governor Brewer signed the Act into law, has an obligation under the  
21 Arizona Constitution to execute the Act, and has an obligation under Arizona  
22 statutory law to defend the legality of the Act in any challenge of the Act.
- 23 20. The Tucson Police Department was established and is operated by the City of  
24 Tucson.
- 25 21. As a law enforcement agency in the state of Arizona, the Police Department of  
26 the City of Tucson is obligated to enforce the Act by the express language of  
27 the Act. See A.R.S. §11-1051B.
- 28 22. The Act compels any state law enforcement officer involved in “any lawful stop,

1 detention or arrest” in connection with the “enforcement of any other law or  
2 ordinance of a county, city or town of this state” to “attempt . . . to determine the  
3 immigration status of the person” when a “reasonable suspicion exists that the  
4 person is an alien and is unlawfully present in the United States . . . .” A.R.S.  
5 §11-1051B (emphasis added).

6 23. The Act also authorizes all state law enforcement officers to arrest without a  
7 warrant any person whom the officer has “probable cause to believe . . . has  
8 committed any public offense that makes the person removable from the United  
9 States.” A.R.S. §13-3883 A5.

10 24. The Act also mandates that “no official or agency of this state or county, city,  
11 town or other political subdivision of this state may limit or restrict the  
12 enforcement of federal immigration laws to less than the full extent permitted  
13 by federal law.” A.R.S. §11-1051A.

14 25. The Act also creates its own private enforcement mechanism by establishing  
15 a private right of action by any “legal resident” of Arizona against any state or  
16 local “official” or “agency” that “adopts or implements a policy that limits or  
17 restricts the enforcement of federal immigration laws . . . to less than the full  
18 extent permitted by federal law.” A.R.S. §11-1051 H.

19 26. Plaintiff’s employment as a Police Officer requires as a condition of employment  
20 that he is certified as a Law Enforcement Official by the Arizona Peace Officer  
21 Standard and Training Board (“AzPOST”), and maintain in good standing  
22 AZPOST Law Enforcement Certification.

23 27. The Tucson Police Department operates as a law enforcement agency for a  
24 community with a significant Hispanic population, approximately 36%, that  
25 resides within and travels throughout the incorporated area of the City which is  
26 also the jurisdictional area of all official responsibilities of Plaintiff as a law  
27 enforcement official.

28 28. The City of Tucson is located within the geographic boundaries of Pima County;

1 the County's Hispanic population in the 2000 Census was reported to be  
2 247,578 and comprises 29.34% of the general population.

3 29. Plaintiff is currently assigned to uniform patrol in Operations Division South, an  
4 area of the City of Tucson in which Hispanics represent well over 50% of the  
5 residents, Spanish is commonly spoken and frequented by visitors from Mexico.

6 30. The City of Tucson is geographically located approximately 60 miles north of  
7 the international border between the United States of America and Mexico.

8 31. The State of Arizona shares a geographic border with the State of Sonora,  
9 Mexico that spans the entire length of Arizona's southern border.

10 32. In the December 2008 publication prepared by the University of Arizona Eller  
11 College of Management for the Arizona Office of Tourism, Mexican Visitors to  
12 Arizona: Visitor Characteristics and Economic Impacts, 2007-08, it was reported  
13 that over 24 million lawful Mexican alien crossings occurred from Mexico to  
14 Arizona from July 2007 to June 2008 and that the City of Tucson is a major  
15 destination point for Mexican visitors.

16 33. The City of Tucson is connected to the border cities of Nogales, Sonora Mexico  
17 and Nogales, Arizona by Interstate 19, an established part the United States  
18 Interstate Freeway system; Interstate 19 is a major corridor of travel between  
19 citizens of Mexico and the United States who utilize this roadway on a 24/7  
20 basis and number in the hundreds of thousands. Additionally, the I-19 corridor  
21 is utilized as a significant commercial corridor for international trade and goods  
22 in the hundreds of millions of dollars on an annual basis.

23 34. In Plaintiff's experience as a Law Enforcement Officer, proximity to the Mexican  
24 border does not provide any race-neutral criteria or basis to suspect or identify  
25 who is lawfully in the United States.

26 35. In Plaintiff's experience as a Law Enforcement Officer, neither the racial and/or  
27 linguistic characteristics of Operations Division South or the Mexican national  
28 visitors thereto provide any race-neutral criteria or basis to suspect or identify

1 who is lawfully in the United States.

2 36. During the performance of Plaintiff's duties as a Law Enforcement Officer he  
3 has daily contact with numerous Hispanics, a number of whom have a skin  
4 color and/or physical features that are commonly attributed to Hispanics; in  
5 Plaintiff's experience as a Law Enforcement Officer, skin color and/or physical  
6 features does not provide any race-neutral criteria or basis to suspect or identify  
7 who is lawfully in the United States.

8 37. During the performance of Plaintiff's duties as a Law Enforcement Officer he  
9 has daily contact with numerous Hispanics, a number of whom dress in a  
10 manner that is commonly and/or stereotypical in attribution to Hispanics; in  
11 Plaintiff's experience as a Law Enforcement Officer, the clothing worn by any  
12 person does not provide any race-neutral criteria or basis to suspect or identify  
13 who is lawfully in the United States.

14 38. During the performance of Plaintiff's duties as a Law Enforcement Officer, he  
15 has daily contact with numerous Hispanics, a number of whom are Spanish-  
16 speaking, some monolingual Spanish-speakers, some Spanish dominant and  
17 some who speak English with an accent; in Plaintiff's experience as a Law  
18 Enforcement Officer, a person's linguistic capabilities in Spanish and/or English  
19 do not provide any race-neutral criteria or basis to suspect or identify who is  
20 lawfully in the United States.

21 39. During the performance of Plaintiff's duties as a Law Enforcement Officer, he  
22 has daily contact with numerous Hispanics, a number of whom listen to  
23 Spanish-language radio, television and music; in his experience as a Law  
24 Enforcement Officer, listening to Spanish-language radio, watching Spanish-  
25 language television or playing Spanish-language music does not provide any  
26 race-neutral criteria or basis to suspect or identify who is lawfully in the United  
27 States.

28 40. During the performance of Plaintiff's duties as a Law Enforcement Officer, he

1 has daily contact with numerous Hispanics, a number of whom are in vehicles  
2 that are common and/or stereotypical in attribution to Hispanics; in Plaintiff's  
3 experience as a Law Enforcement Officer, the vehicle a person is in does not  
4 provide any race-neutral criteria or basis to suspect or identify who is lawfully  
5 in the United States.

6 41. During the performance of Plaintiff's duties as a Law Enforcement Officer, he  
7 has daily contact with numerous Hispanics, a number of whom use public  
8 transportation, commuter vans or commercial carriers; in Plaintiff's experience  
9 as a Law Enforcement Officer, the use of public transportation, commuter vans  
10 or commercial carriers does not provide any race-neutral criteria or basis to  
11 suspect or identify who is lawfully in the United States.

12 42. During the performance of Plaintiff's duties as a Law Enforcement Officer, he  
13 has daily contact with numerous Hispanics, a number of whom are in vehicles  
14 with out-of-state and Mexican automobile license plates; in Plaintiff's experience  
15 as a Law Enforcement Officer, the license plate on a vehicle does not provide  
16 any race-neutral criteria or basis to suspect or identify who is lawfully in the  
17 United States.

18 43. During the performance of Plaintiff's duties as a Law Enforcement Officer, he  
19 has daily contact with numerous Hispanics, a number of whom live or are inside  
20 a residence that is common and/or stereotypical in attribution to Hispanics; in  
21 Plaintiff's experience as a Law Enforcement Officer, the residence that is  
22 common and/or stereotypical in attribution to Hispanics does not provide any  
23 race-neutral criteria or basis to suspect or identify who is lawfully in the United  
24 States.

25 44. During the performance of Plaintiff's duties as a Law Enforcement Officer he  
26 has daily contact with numerous Hispanics, some of whom are elementary,  
27 middle and high school age and at times occur on school grounds or in close  
28 proximity thereto.

- 1 45. In Plaintiff's experience as a Law Enforcement Officer, contact with K-12 school  
2 age Hispanic children that includes any inquiry into the student's or parent's  
3 status in the United States is not premised on race-neutral criteria or a  
4 reasonable basis to suspect or identify who is lawfully in the United States and  
5 does not occur without invading the student's privacy, right to due process or  
6 equal protection.
- 7 46. Most children in Arizona do not have any form of state or federal identification  
8 regardless of their race, ethnicity, national origin, or immigration status.
- 9 47. In fact, children—whether they be undocumented immigrants, documented  
10 immigrants, or citizens of the United States—are not required to carry proof of  
11 identification, citizenship, or immigration status under federal law. See 8 U.S.C.  
12 §1304(e).
- 13 48. In Plaintiff's experience as a Law Enforcement Officer, there are no race-neutral  
14 criteria or basis to suspect or identify who is lawfully in the United States;  
15 requiring such, the mandate of the Act, compels under threat of lawsuit,  
16 discipline and loss of required certification every Law Enforcement Officer in  
17 the State of Arizona to actively engage in racial profiling to detain, question and  
18 require every Hispanic found within the limits of the City of Tucson to prove their  
19 legal status in the United States of America irrespective of county of origin,  
20 citizenship, immigrant status based solely on immutable and mutable  
21 characteristics common or stereotypical in attribution to Hispanics.
- 22 49. During the performance of Plaintiff's duties as a Law Enforcement Officer he  
23 has daily contact with Hispanics during the investigation into potential criminal  
24 activity, an investigation that is often dependent on the cooperation, information  
25 and trust of Hispanic witnesses and victims; in Plaintiff's experience as a Law  
26 Enforcement Officer, requiring law enforcement to routinely question Hispanics  
27 about their immigrant status in the United States and require production of  
28 actual proof of their lawful presence in the United States would seriously



1           impede law enforcement investigations and facilitate the successful commission  
2           of crimes in the United States.

3       50.   Defendant Brewer signed Senate Bill 1070 into law on Friday, April 23, 2010  
4           and on the same date issued Executive Order 2010-09 requiring AzPOST to  
5           prescribe a minimum training course for law enforcement officers in the state  
6           and all political subdivisions to implement SB 1070.

7       51.   The Act compels Plaintiff as an AzPOST certified Law Enforcement Officer for  
8           the City of Tucson to determine the immigration status of Hispanics, detain,  
9           arrest and criminally cite undocumented persons and lawful residents of the  
10          United States who fail to complete or carry an alien registration document.

11      52.   The Act amends A.R.S. §13-1509, and provides for the criminal prosecution as  
12          a class 1 misdemeanor of persons who fail to complete or carry an alien  
13          registration document.

14      53.   The City of Tucson has established and maintains as a part of the City  
15          Attorney's Office, a criminal prosecution entity that routinely prosecutes criminal  
16          matters within the jurisdiction of the Tucson Municipal City Court.

17      54.   Barbara LaWall, as the County Attorney for Pima County, has the responsibility  
18          and duty to prosecute alleged violations of the criminal laws enacted in Arizona  
19          by charging such alleged offenses in the Pima County Justice Court or the  
20          Superior Court of the State of Arizona in Pima County.

21      55.   At all times relevant to this Complaint, Defendants have announced and made  
22          clear their intent to implement and enforce the Act, enacted legislation of the  
23          State of Arizona, a session law that places every Hispanic within the State of  
24          Arizona at substantial risk of the immediate loss of rights guaranteed by the  
25          United States Constitution, including unlawful detention, denial of due process,  
26          equal protection based solely on their race, Hispanic.

27      56.   The Act was enacted by the Legislature of the State of Arizona and signed into  
28          law by Defendant Brewer as a result of racial bias and anti-Hispanic beliefs and

1 sentiments.

2 57. Plaintiff believes that the Act is the product of racial bias aimed specifically at  
3 Hispanics, is unlawful, results in impermissible deprivations of rights guaranteed  
4 by the United States Constitution, has voiced his opinions of such in the work  
5 place and been confronted by Law Enforcement Officer's for expressing such  
6 beliefs.

7 58. The City of Tucson, including the Tucson Police Department has no agreement  
8 or authorization as provided for and required by 8 U.S.C. §1357, Subsection  
9 287(g)(1) and (5) to allow, instruct or order any City of Tucson employee,  
10 including any of its 1,100 plus authorized Law Enforcement Officers to make  
11 any inquiry of any individual concerning the person's immigration status or  
12 require proof of lawful presence in the United States.

13 59. The government of the United States of America, acting through the Secretary  
14 of the Department of Homeland Security of the United States in accordance  
15 with the Immigration and Nationality Act, 8 U.S.C. §1357(g), has not authorized  
16 the law enforcement officers employed by the Police Department of the City of  
17 Tucson—including Officer Escobar—to enforce federal immigration law to the “full  
18 extent permitted by federal law” as required by the Act.

19 60. Nor will every member of the City of Tucson Police Department—including  
20 Officer Escobar—receive federally approved training regarding the enforcement  
21 of federal immigration law or obtain written certification of their receipt of such  
22 training as expressly required by the Immigration and Nationality Act, 8 U.S.C.  
23 §1357(g), before the local law enforcement officer purports to enforce federal  
24 immigration law.

25 61. Nor will all of the members of the City of Tucson Police Department—including  
26 Officer Escobar—be subject to the supervision of United States Immigration and  
27 Customs Enforcement officers when engaged in the conduct mandated by the  
28 Act, which violates the express requirements of the Immigration and Nationality

1 Act, 8 U.S.C. §1357(g).

2 62. Notwithstanding the fact that the Police Department of the City of Tucson lacks  
3 the requisite authorization from the Department of Homeland Security of the  
4 United States to enforce federal immigration law to the “full extent permitted by  
5 federal law,” the Tucson Police Department is planning to prepare its  
6 officers—including Officer Escobar—to enforce federal immigration law as  
7 required by the Act.

8 63. The Act is unlawful because it is preempted by the Immigration and Nationality  
9 Act, as amended. See, e.g., 8 U.S.C. §§1252c(a), 1304(e), and 1357(g).

10 64. For example, the Act is preempted by 8 U.S.C. §1252c(a) because Section  
11 1252c(a) expressly limits the authority of state and local law enforcement  
12 officers to detain and arrest only those undocumented immigrants who have  
13 already been convicted of a felony in the United States, have left or been  
14 deported from the United States after their conviction, and have unlawfully  
15 reentered the United States.

16 65. The Act is also preempted by 8 U.S.C. §1357(g) because—except as provided  
17 by 8 U.S.C. §1252c(a)—state and local law enforcement officials can enforce  
18 federal immigration law only after executing a “memorandum of agreement”  
19 with the Secretary of Homeland Security in accordance with all of the specific  
20 requirements of Section 1357(g).

21 66. The Act is also preempted by 8 U.S.C. §1304(e) because the Act requires “any  
22 person”—irrespective of age—lawfully stopped, detained, or arrested by local law  
23 enforcement officials whom the officer “reasonably suspects” to be unlawfully  
24 in the United States to prove that they are lawfully in the United States when no  
25 such requirement exists under federal law for individuals under eighteen years  
26 of age. See 8 U.S.C. §1304(e).

27 67. The Act is also preempted by the supremacy clause of Article VI of the United  
28 States Constitution because it purports to give the courts of Arizona jurisdiction

to adjudicate violations of federal immigration law.

68. Absent a judicial declaration that the Act is lawful, Officer Escobar does not believe he can enforce the Act because he believes that he lacks the authority to do so under the Immigration and Nationality Act, 8 U.S.C. §§1252c(a) and 1357(g).

69. Correspondingly, absent a judicial declaration that the Act is lawful, Officer Escobar does not believe he can enforce the Act because he believes that in so doing he would violate the rights of Latinos and Latinas under the due process and equal protection clauses of the Fourteenth Amendment of the Constitution of the United States because the Act will require him to use race as a primary factor in enforcing the Act.

70. Similarly, absent a judicial declaration that the Act is lawful, Officer Escobar does not believe he can enforce the Act as to school children and other minors because he believes that in so doing he would violate the Supreme Court of the United States' ruling in Plyler v. Doe, 457 U.S. 202 (1982).

71. If Officer Escobar does not enforce the Act to "the fullest extent permitted by federal immigration law," he will be subject to (among other things) discipline by Defendant City of Tucson.

72. Similarly, if Officer Escobar does not enforce the Act to "the fullest extent permitted by federal law," he will be subject to costly lawsuits by private parties under the Act. A.R.S. §11-1051H.

73. Moreover, in order to be prepared to comply with the Act, Officer Escobar will be forced to expend his scarce time and resources in order to thoroughly familiarize himself with the Act's requirements and the Act's complex interaction with federal immigration law.

74. Officer Escobar is also suffering increasing pressure from individuals within the Tucson Police Department and from various political entities within and outside the state of Arizona to enforce the Act.

1 75. This pressure is chilling Officer Escobar from exercising his First Amendment  
2 right to speak out against the Act as unlawful and discriminatory.

3 76. But for Governor Brewer's signing the Act into law, Officer Escobar would not  
4 be chilled from exercising his First Amendment rights and subject to the private  
5 enforcement actions created by the Act.

6 77. Under these circumstances, Officer Escobar finds himself in a dilemma: on one  
7 hand, if he refuses to enforce the Act, he can be disciplined by his employer or  
8 subjected to costly private enforcement actions under the Act; on the other  
9 hand, if he enforces the Act, he can be subjected to costly civil actions alleging  
10 the deprivation of the civil rights of the individual against whom he enforces the  
11 Act.

12 **COUNT ONE**

13 **FOURTEENTH AMENDMENT: DUE PROCESS**

14 **(42 U.S.C. §1983)**

15 78. Plaintiff hereby re-alleges and incorporates all allegations contained in  
16 paragraphs 1 through 77 as if fully set forth herein.

17 79. Defendants' actions constitute violations of due process and 42 U.S.C. §1983.

18 80. As a direct and proximate result of the conduct of Defendants, Plaintiff has  
19 suffered injury.

20 **COUNT TWO**

21 **FOURTEENTH AMENDMENT: EQUAL PROTECTION**

22 **(42 U.S.C. §1983)**

23 81. Plaintiff hereby re-alleges and incorporates all allegations contained in  
24 paragraphs 1 through 80 as if fully set forth herein.

25 82. Defendants' actions against Plaintiff constitutes a violation of equal  
26 protection and 42 U.S.C. §1983.

27 83. As a direct and proximate result of the conduct of Defendants, Plaintiff has  
28 suffered injury.

**COUNT THREE**

**FIRST AMENDMENT: FREE SPEECH**

84. Plaintiff hereby re-alleges and incorporates all allegations contained in paragraphs 1 through 83 as if fully set forth herein.
85. Defendants' actions against Plaintiff constitutes a violation of free speech as guaranteed by the First Amendment of the Constitution of the United States and 42 U.S.C. §1983.
86. As a direct and proximate result of the conduct of Defendants, Plaintiff has suffered injury.

**COUNT FOUR**

**FOURTH AMENDMENT**

87. Plaintiff hereby re-alleges and incorporates all allegations contained in paragraphs 1 through 86 as if fully set forth herein.
88. Defendants' actions against Plaintiff constitutes a violation of the Fourth Amendment to the United States Constitution.
89. As a direct and proximate result of the conduct of Defendants, Plaintiff has suffered injury.

**COUNT FIVE**

**FIFTH AMENDMENT**

90. Plaintiff hereby re-alleges and incorporates all allegations contained in paragraphs 1 through 89 as if fully set forth herein.
91. Defendants' actions against Plaintiff constitute a violation of the Fifth Amendment to the United States Constitution.
92. As a direct and proximate result of the conduct of Defendants, Plaintiff has suffered injury.

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**COUNT SIX**

**FEDERAL PREEMPTION & UNAUTHORIZED OR SUPERVISED FEDERAL  
IMMIGRATION CONDUCT  
(8 U.S.C. §1357)**

93. Plaintiff hereby re-alleges and incorporates all allegations contained in paragraphs 1 through 92 as if fully set forth herein.

94. Defendants' actions against Plaintiff constitute a violation of 8 U.S.C. §1357, Subsection 287(g)(1) and (5) as the City of Tucson has no authorization or agreement with the United States to perform any immigration inquiries of any persons present in the United States.

95. As a direct and proximate result of the conduct of Defendants, Plaintiff has suffered injury.

**DECLARATORY JUDGMENT  
(28 U.S.C. §2201)**

96. Plaintiff hereby re-alleges and incorporates all allegations contained in paragraphs 1 through 95 as if fully set forth herein.

97. Plaintiff seeks a declaratory judgment as provided in 28 U.S.C. § 2201 et. seq.

**V. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays:

1. That this court declare the actions complained of herein to be in violation of 42 U.S.C. §1983, the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution.
2. That Defendants be ordered to take appropriate injunctive and affirmative acts to insure that the actions complained of herein are not engaged in again by them or any of their agents.
3. That Defendants, including their officers, directors, agents, employees and successors, be permanently enjoined from engaging in any

1 immigration stops, questioning, detention, citing or any law  
2 enforcement activity reserved to the federal government.

- 3 4. That Plaintiff be awarded his attorneys' fees;  
4 5. That Plaintiff be awarded his costs; and  
5 6. That Plaintiff be awarded all other relief that this court deems just and  
6 proper under the circumstances.

7 DATED this 18<sup>th</sup> day of May 2010.

8 s/Richard M. Martinez, Esq.  
9 Richard M. Martinez, Esq.

10 Stephen Montoya  
11 Augustine B. Jimenez III  
12 3200 North Central Avenue, Suite 2550  
13 Phoenix, Arizona 85012-2490

14 Counsel for Plaintiff  
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