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CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA		
BY		B. DEPUTY

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

THE UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.)
)
 THE STATE OF ARIZONA and JANICE K.)
 BREWER, GOVERNOR OF THE STATE OF)
 ARIZONA, in her official capacity)
)
 Defendant.)
)
 _____)

SRB
Civil Action No. 2:2010 CV 1413 PHX ~~NW~~

AMICUS CURIAE BRIEF IN SUPPORT OF THE DEFENDANTS

Petitioner, **RAY ELBERT PARKER**, hereby proffers the above captioned brief as a *friend of the court*, which sets forth the grounds and the law to be dispositive of this law suit in a manner that is *reasonable* and consistent with both the letter and the spirit of the law, and Petitioner states the following:

STATEMENT OF THE FACTS

The Arizona legislature passed the *immigration: Law Enforcement: Safe Neighborhoods Act (SB 1070)*, which the Honorable Jan Brewer, Governor of Arizona, signed into law on the **23rd day of April, 2010**. The projected date of *implementation* for the law to go into effect to

Begin the enforcement of the law by Arizona enforcement agencies is **the 29th day of July, 2010.**

The brouhaha over this Act, which began months before the signing, was fueled by the liberal media and career activists such as the Reverend Al Sharpton, the alleged vigilante of Black McCarthyism, who acts as the drum major to lead every congregation he adopts down the streets of anarchy waving the banner of *racism* or alternatively, emerging as the future candidate for the Presidency of *The United States of Mexico* as a reward for his Latino allegiance to the illegal aliens from south of the border rather than the native American citizens of Arizona.

On **June 5, 2010**, a complaint was filed in this court by the *usual suspects*, who as professional *activists* are funded as *tax-free* non-profit organizations that have an alleged history of betrayal of American values and racial paranoia, namely, *The American Civil Liberties Union (ACLU)*, *Mexican American Legal Defense Education Fund (MALDEF)*, *National Immigration Law Center (NILC)*, *National Association for the Advancement of Colored People (NAACP)*, *The National Day Laborer Organization Network (NDLON)* and *The Asian Pacific American Legal Center (APALC)*.

On **July 6, 2010**, The United States Department of Justice filed their lawsuit to *block* Arizona's immigration law *before it goes into effect* on its appointed time, the lawsuit charging that **SB 1070** is *unconstitutional*. The Department of Justice, functioning under the auspices of Barack Hussein Mohammad Obama, President of the United States of America, is asking for a *preliminary injunction* to stop the Arizona legislation from taking effect 23 days hence (**July 29,**

2010). The Justice Department law suit is based on *the supremacy clause of the United States Constitution*, which they rely upon to support their argument that the federal law trumps *state statutes*; further, the plaintiff argues that enforcing federal laws is a federal responsibility; that the State of Arizona has exceeded its legal authority and “If SB 1070 is *allowed* to take effect, then it will cause *irreparable injury* on the United States ability to manage *foreign policy*.”

SB 1070 *does not* make it a crime for any person whatsoever to either live or be in Arizona, legally. Contrary, the law only allows law enforcement agencies to *question* the *legal status* of a person involved in a crime or breaking the law, *if* they have “*reasonable suspicion*” in their *investigation* that the person committing the crime *is not legally in this country*. The alleged opposition by activists and civil rights groups is that the use of this procedure, essential to standard law enforcement *investigations*, is a gross violation of the civil rights of illegal *aliens* and all other citizens whatsoever. 1/

Arizona has approximately 500, 000 *illegal* immigrants according to the United States Department of Homeland Security, a federal agency with responsibility to President Obama. It is currently estimated that there are over 12 million illegal aliens scattered throughout the United States, a renegade group President Obama wants to make legal for party *partisan* purposes.

1/ What Amendment to the United States Constitution, or federal statute passed by the Congress of the United States, award a civil or constitutional right to *illegal* aliens?

I

THE LAWSUITS CHALLENGING SB 1070 PRIOR TO THE EFFECTIVE DATE OF IMPLIMENTAION MUST BE DISMISSED AS PREMATURE

In order to be ripe for adjudication, an action *must not be brought prematurely*.

Socialist Labor Party v. Gilligan, 406 U.S. 583, 92 S. Ct. 1975); *Hass v. Pittsburg National Bank*, 526 F. 2d 1083 (CA 3rd Cir., 1975).

An action commenced *before* a cause of action has accrued is premature and *cannot* be maintained, the federal plaintiff seeking relief *not being damaged*. The United States Department of Justice, the agency with responsibility to enforce immigration laws already on the books, cannot sue to prevent Arizona officials from enforcing the law *until the law goes into effect*. Where a promulgated law provides that proceedings may be commenced *after* the expiration of a certain time, that time *must fully expire* before the proceedings can be installed. *Jahnke v. Palomar Financial Corporation*, 527 P. 2d 771, 775 [4- 6] (CA 9th Cir. – Arizona, 1974).

It is *well settled law* that if the plaintiff does not have *actual or legal* existence at the time the complaint is filed *the action fails for want of commencement*. It is apparent that the true doctrine is this: When the suit fails for want of commencement, no action even comes into existence, and therefore no action to which the complaint can relate. As a consequence, the complaint(s) *must* be stricken from the court's files because of the *nonexistence of the action*, and not because of the nonexistence of the complaint. *Fulton v. Woodford*, 498 P. 2d 564, 571 [5, 7] (CA 9th Cir. –Arizona, 1972); *Bellamy v. United States*, 448 F. Supp. 790, 793 [4] (U. S.

Dist. Ct. S. D. Texas, Houston Division, 1978).

II

CONSTITUTIONAL RIGHTS ARE PERSONAL AND MAY NOT BE ASSERTED BY A SUBSTITUTE

A court does not anticipate a question of *constitutional law* in advance of the necessity of deciding it, and when necessary, then only in a *clearly defined factual setting*. It is *well settled law* that the practice of courts is *never* to anticipate a question of constitutional law in advance of the necessity of dealing with it under clearly defined circumstances. *Tung Chijen v. Immigration and Naturalization Service*, 566 F. 2d 1095, **1096 [1 – 3]** (CA 8th Cir., 197); *Bowen v. United States*, 95 S. Ct. 2569, **2573 [5 – 6]**, 422 U. S. 916 (1975).

It is also *well settled law* that courts will not entertain or proceed with a cause merely to determine *abstract* or *hypothetical* propositions of law. The *purpose* of Arizona's immigration law is to respond to the serious and visible problems of *border anarchy*, criminal liability, economic impact, tourist absenteeism, drug trafficking, human trafficking, domestic and national security and the state obligation and duty to protect the citizenry and the way of life of taxpaying Arizonians.

Therefore, a ruling upon the *facial constitutionality* of the Arizona law **SB 1070** should be made *only* when necessary and then *only* in a *clearly defined setting*. *William Jefferson Clinton v. Paula Jones*, 117 S. Ct. 1636, **1642 [1 – 2]**, 520 U. S. 681 (1997); *Ondova Ltd. Co. v. Manila Industries, Inc.*, 513 F. Supp. 2d 762, **770 [5 – 7]** (U. S. Dist. Ct. N. D. Texas, Dallas Division -2007).

Actions involving constitutional rights are *personal* and *may not* be asserted vicariously. *United States v. Raines*, 80 S. Ct. 519, **523 [5 – 9]**, 362 U. S. 17, **22**. It is also significant for the court to duly note the incontrovertible proposition that “it would indeed be undesirable for this court to attempt to consider every conceivable situation *which might arise* in the application of complex and comprehensive Arizona legislation on immigration or alternatively, the *ongoing failure* of President Barack Hussein Mohammad Obama and the federal agencies under his command responsible for protection of the nation’s borders to be remiss in the constitutional duty mandated by the statutory immigration law and the Constitution of the United States.” The *crux* of the matter is that the failure of President Obama to seriously perform his constitutional duty to protect America’s borders has resulted in Phoenix having the reputation as “the kidnapping capital of the world;” and, the ludicrous empty-suit logic that sending 1500 troops to guard the Arizona border is a solution that could only come from someone with a mind that’s on vacation since the mathematical reality of the situation equals *one* soldier for every mile, and not counting Texas, New Mexico and California.

Although by continually abusing his *tax-free non-profit privilege* and through the expansion of his long- arm *liberalized partisanship* made possible by his F. C. C. *National Activist Network*, the alleged pseudo *Reverend* Al Sharpton has been instrumental in mobilizing the liberal invasion of Arizona with organized boycotts, sanctions imposed by other states, transporting protesters from other states, resurrecting the ghost of McCarthyism to place the *onus* of *racism* on Arizona government, the citizenry and the court with willful intent

to victimize the innocent and create the image of *deism* for the guilty, who defy American law and enter the country, illegally. Syllogistic reasoning supports an undeniable premise: Every man, woman and child breaking the law to cross American borders illegally is performing a criminal offense; and, if you can't protect your borders, then you can't protect your country.

Petitioner submits that the wisdom and judicial precedent of the Supreme Court of the United States dictates the course of action that *must* be applied by this court in dealing with the matter now *prematurely* before this court of competent jurisdiction; that is, the activists litigants, the United States Department of Justice and even the President himself are *precluded* from challenging the constitutionality of "state action" by invoking the rights of others; that is, unless President Barack Hussein Mohammad Obama is going to *reward* those who break our laws and plunder the entitlement programs with undeserved *citizenship* evidencing *disparate treatment* of aliens who comply with immigration laws already promulgated by the Congress of the United States. Relied upon: *Barrows v. Jackson*, 73 S. Ct. 1031, **1034 [3]**, 346 U. S. 249 (1953).

III

PLAINTIFF DEPARTMENT OF JUSTICE LACKS STANDING

Standing is a threshold requirement for a plaintiff seeking to challenge governmental action. Only parties who are, *Kids Care, Inc. v. Alabama Department of Human Resources*, 843 So 2d 164 (Ala 2002) or may be adversely affected by the state action, *United States v. Abell*, 552 F. Supp. 316 (D. Me 1982) may challenge such action, either with regard to its

Constitutionality, *Augustine v. Barnes*, 626 P. 2d 625 (Colo. 1981) or implementation, *Fritz v. Huntington Hospital*, 348 N. E. 2d 547 (1976).

The *essentials of standing* are: **(1) A causal connection** between the alleged injury *must exist*. If there is no law yet applied, then there is no injury! **(2) The relief requested must provide a remedy** for the injury complained of – *Kearns Tribune Corporation v. Wilkinson*, 946 P. 2d 372 (*Utah*, 1997).

Petitioner submits that plaintiff's do not have *standing* as of **the 6th day of July, 2010** and at all times relevant in this *premature* cause of action based upon *conjecture* and *political expediency* of President Obama since they *have not* suffered any *actual injury* whatsoever and that Arizona's immigration law is clearly within the zone of interest meant to be regulated by the guarantees of *state rights* and the guarantees embedded in the Constitution of Arizona and the Constitution of the United States. 10th, 14th Amendments, U. S. Constitution.

IV

THE TENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES IS A LIMITATION ON THE ABUSIVE EXERCISE OF POWER OF FEDERAL GOVERNMENT UNDER THE SUPREMACY CLAUSE

The Arizona law **SB 1070**, both by the letter and the spirit of the law, does not by inference or otherwise, ever suggest or attempt to usurp federal law or to substitute a new law to replace the federal immigration law, which has never been enforced by President Barack Hussein Mohammad Obama nor by his two predecessors who occupied the Oval Office for sixteen years.

The **10th Amendment** to the United States Constitution *limits* the power of Congress, as well as the President and federal agencies and officials, to exercise their power in a fashion that *impairs* states rights, integrity and the exercise of state duty and responsibility for the protection, safety, security, well-being and the “peace of mind” of its *tax-paying citizenry* or alternatively, to inhibit, restrain, restrict, forbid, command, hinder, prevent or *prescribe* from an *oppressive* position of authority that interferes with a state ability to function in a *lawful* manner in a federal system. *New York v. United States*, 112 S. Ct. 2408 (1992), 505 U. S. 144, on remand 978 F. 2d 705; *Fry v. United States*, 95 S. Ct. 1792, 421 U. S. 542; *Minnesota & Eastern Railroad Corp. v. South Dakota*, 362 F. 3d 512, **518 [4 – 6]** (CA 8th Cir., 2003); *United States v. Milstein*, 401 F. 3d 53, **68 [19, 20]** (CA 2nd Cir., 2004).

Any legislation of Congress beyond the *limits* of the power delegated by the Constitution of the United States, or attempts by federal agencies and its officials to enforce their esoteric interpretation of power not delegated, either directly or indirectly. Is an *invasion* of the *rights* reserved to the states or to the people, *and is necessarily void.* *Faggs v. City of South Pasadena*, 947 F. Supp. 1580.

Eric Holder, Jr., the Attorney General of the United States of Mexico and the puppet stooge of Muslim puppeteer President Barack Hussein Mohammad Obama, is already, as you read this paragraph, under strict *orders* from the White House to prepare and file *more “bad faith” speculative and burdensome* hyperbolic lawsuits to flood the Arizona courts at the expense of American taxpayers with litigation designed to bring this administration’s goal of

the cultural "*succession of the heart*" that has the potential of draining the courts and state government of time, money and personnel by creating a legal "Desert Storm" for the courts that's analogous to the 2010 BP oil spill in the Gulf of Mexico. See attached **Exhibit A**.

At the turn of the 21st century, the Hispanic population will be the dominant population in America with the Caucasian population the minority. This population will continue its growth since higher fertility levels among them are driving much of the increases which are *ongoing* to produce larger families. At a million man march rally in Washington, D. C., an Hispanic lady told the crowd: "As good Catholics, we'll take over America because 'we're over achiever's in the bedroom'."

Those living in the border states (i.e., Arizona, Texas, New Mexico, California) deserve to be *free* of the fear of kidnapping, drug wars, gang wars, thieves, crimes and all other threats to their security as taxpaying straight arrow citizens. It's almost impossible to comprehend leadership by a President, both past and present, who fail to realize that *homeland security* should be a top priority. The first lesson in *Machievellian politics* is that "one change always leaves the way prepared for another." President Obama has his own concise manual for the oppressed who would acquire and increase their political power; that is, any direction or purpose America may receive *must be imposed upon it by those who have the power and control*.

The emergence of *racial profiling* as a controversial way of life in America will ultimately evolve into another era of McCarthyism that gives those in power freedom to question a person's personal beliefs and loyalty, which if carried to extreme may even abolish


Anthropology as a proper subject to be taught in our schools and the teaching of the theory of evolution, if the *oppressed* become the *oppressors* with the control of the power to rewrite history and dictate "how" and "what" people must *think*.

WHEREFORE, the amicus curiae petitioner moves this honorable court to **grant** his motion for amicus curiae status with the other amicus curiae participants, *without oral argument*, and to make this pleading a permanent part of the court record for purposes of appeal. It is petitioner's argument in support of the Arizona defendants that the court should dismiss the Department of Justice plaintiff's action, *with prejudice*, for reasons and on grounds as stated above.

POINTS: As stated above.

AUTHORITIES: As stated above.

Respectfully submitted,

/s/ 
RAY ELBERT PARKER PRO SE

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**IN THE
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FOR THE DISTRICT OF ARIZONA**

THE UNITED STATES OF AMERICA)

Plaintiff,)

v.)

Civil Action No. 2;2010 CV 1413 PHX NVW

THE STATE OF ARIZONA AND JANICE K. }
BREWER, GOVERNOR OF ARIZONA, in }
her official capacity)

Defendant.)

CERTIFICATE OF SERVICE

Petitioner, **RAY ELEBERT PARKER**, hereby states *under oath* that a true copy of the above pleading has been mailed, postage prepaid, this **13th day of July, 2010**, to the following:

The Honorable Janice K. Brewer, Governor of the State of Arizona, Defendant, Executive Tower of State Capitol, 1700 West Washington Street, Phoenix, Arizona 85007; **The Honorable Terry Goddard, Esq., Attorney General for the State of Arizona**, Counsel for Defendant, Office of the Attorney General for the State of Arizona, 1275 West Washington Street, Phoenix, Arizona 85007; and to counsel for the Department of Justice plaintiff: **Troy West, Esq., Assistant United States Attorney** on behalf of all of plaintiff's counsel, namely, **Davis K. Burke, Esq., United States Attorney; Arthur R. Goldberg, Assistant Director, Federal Programs**

Branch; Vhur Chilakamarri, Esq.; and Joseph Wilkenfeld, Esq., United States Department of Justice, Civil Division, 20 Massachusetts Avenue, NW, Washington, D. C. 20530.

Respectfully submitted,

/s/ 
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FROM PAGE ONE

ARIZONA

From page A1

ment Reform Committee, said Mr. Obama's lawsuit was breaking new ground in "a misuse" of the supremacy clause of the Constitution.

"Never before have we challenged something because it might lead to something. There's nowhere in the Constitution that says a state is limited to what it absolutely won't do and can be stopped for what it might do," he said.

He said Arizona's law amounts to "self-help consistent with existing federal programs that have been passed by Republican and Democratic presidents," and therefore does not conflict with the Constitution.

Immigration has been a flash-point issue for years, and Arizona's law has only fanned the flames.

The law, which is slated to take effect July 29 unless a judge blocks it, would require police to check the legal status of anyone they suspect of being in the country illegally whom they encounter while enforcing other laws. It says race may not be used as a factor for determining who should be questioned, but opponents, including Mr. Obama, say they fear it will lead to racial profiling nonetheless.

A half-dozen lawsuits already have been filed against the law and the administration could have joined one of them in a friend-of-the-court brief. Instead, the Justice Department filed its own lawsuit, showing a wrong statement of Mr. Obama's interest in Arizona's law.

Arizona officials argue that their law doesn't do more than enforce what is already on the books under U.S. law, but Mr. Obama said the new rules don't count for the nuances of federal policy, such as international relations and national security concerns.

"States and local governments can certainly help the federal government enforce immigration laws. What we're saying is that they cannot pass laws that are inconsistent with the federal laws or do things that contravene federal policy when it comes to enforcement of our immigration laws," he said.



ASSOCIATED PRESS

Arizona Gov. Jan Brewer slammed the administration for being indecisive on criticism of the immigration law on Sunday in Boston.

Still, Mrs. Brewer said last week that the federal government is being hypocritical in singling out Arizona for enacting a policy when there are dozens of so-called "sanctuary cities" that refuse to report illegal immigrants — which also potentially conflicts with federal law.

The Obama administration contends that the border is more secure now than at any other time in recent memory, and points as evidence to the decline in illegal immigrants caught crossing the border and the increase in U.S. Border Patrol agents begun under Mr. Obama's predecessor, George W. Bush.

Now Mr. Obama is pushing Congress to act on a broad immigration bill that would legalize illegal immigrants and rewrite the legal immigration system, though it does not include a temporary-worker program that businesses and many Republicans say is needed to gain their support.

Sen. Jon Kyl, Arizona Republican, said that has been jettisoned at the wishes of labor unions.

"A temporary-worker program would have to be a part of any comprehensive immigration reform. And there isn't support for that in the Congress right now," said Mr. Kyl, who was a key part of the 2007 effort to pass a bill.



ASSOCIATED PRESS

PLAN B: Attorney General Eric H. Holder Jr. is keeping all of his options open on Arizona's immigration law.

Arizona warned of 2nd lawsuit

By Stephen Dinan
THE WASHINGTON TIMES

Feds to use racial profiling as 'tools' against illegals law

The Obama administration could file yet another lawsuit against Arizona as it battles racial profiling in taking place under that state's new immigration law, Attorney General Eric H. Holder Jr. said.

Mr. Holder's Justice Department sued Tuesday to block the law, arguing that it infringed on the federal government's right to determine immigration policy. But the lawsuit made almost no mention of racial profiling — a key issue in President

Obama's attacks against the law in the weeks before the lawsuit was filed.

The attorney general, speaking at the Aspen Ideas Festival last week in an interview aired on CBS on Sunday, said the pre-emption argument was the "strongest initial argument" against the law. If the law goes into effect despite the lawsuit, he said, federal officials will

watch for profiling.

"If that was the case, we would have the tools and we would bring suit on that basis," he said.

Mr. Holder came under fire in May after he acknowledged to a Senate committee that he had not read the Arizona law, despite having publicly criticized it and arguing that it would lead to racial profiling.

Arizona Gov. Jan Brewer, at a meeting of the nation's governors in Boston, told the Associated Press that the administration can't seem to make up its mind about its criticism of the law.

"Why would they have to hesitate after all the comments they made, and all the outrage that they made against the bill in regards to racial profiling, that it didn't show up," she said.

Speaking on C-SPAN's "Newsmakers" program, Rep. Darrell Issa of California, the » see ARIZONA, page A10

RM - HIGH 90, LOW 74

MONDAY, JUN 28, 2010

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- EXHIBIT A -