

MALDEF and Other Civil Rights Groups File Legal Challenge to Arizona Racial Profiling Law

May 17, 2010

PHOENIX, AZ – MALDEF and a coalition of civil rights groups filed a class action lawsuit today in a federal court in Phoenix challenging Arizona's new law requiring police to demand "papers" from people they stop who they suspect are not authorized to be in the U.S. The extreme law, the coalition charged, invites the racial profiling of people of color, violates the First Amendment and interferes with federal law

The coalition filing the lawsuit includes the American Civil Liberties Union, MALDEF, National Immigration Law Center (NILC), the National Association for the Advancement of Colored People (NAACP), ACLU of Arizona, National Day Laborer Organizing Network (NDLON) and the Asian Pacific American Legal Center (APALC) – a member of Asian American Center for Advancing Justice.

"Arizona's law is quintessentially un-American: we are not a 'show me your papers' country, nor one that believes in subjecting people to harassment, investigation and arrest simply because others may perceive them as foreign," said **Omar Jadwat**, a staff attorney with the ACLU Immigrants' Rights Project. "This law violates the Constitution and interferes with federal law, and we are confident that we will prevent it from ever taking effect."

The lawsuit charges that the Arizona law unlawfully interferes with federal power and authority over immigration matters in violation of the Supremacy Clause of the U.S. Constitution; invites racial profiling against people of color by law enforcement in violation of the equal protection guarantee and prohibition on unreasonable seizures under the Fourteenth and Fourth Amendments; and infringes on the free speech rights of day laborers and others in Arizona.

"This discriminatory law pushes Arizona into a spiral of fear, increased crime, and costly litigation," said **Victor Viramontes**, MALDEF Senior National Counsel. "We expect that this misguided law will be enjoined before it takes effect."

One of the individuals the coalition is representing in the case, Jim Shee, is a U.S.-born 70-year-old American citizen of Spanish and Chinese descent. Shee asserts that he will be vulnerable to racial profiling under the law, and that, although the law has not yet gone into effect, he has already been stopped twice by local law enforcement officers in Arizona and asked to produce his "papers."

Another plaintiff, Jesus Cuauhtémoc Villa, is a resident of the state of New

Mexico who is currently attending Arizona State University. The state of New Mexico does not require proof of U.S. citizenship or immigration status to obtain a driver's license. Villa does not have a U.S. passport and does not want to risk losing his birth certificate by carrying it with him. He worries about traveling in Arizona without a valid form of identification that would prove his citizenship to police if he is pulled over. If he cannot supply proof upon demand, Arizona law enforcement is required to arrest and detain him.

Several prominent law enforcement groups, including the Arizona Association of Chiefs of Police, oppose the law because it diverts limited resources from law enforcement's primary responsibility of providing protection and promoting public safety in the community and undermines trust and cooperation between local police and immigrant communities.

"This ill-conceived law sends a clear message to communities of color that the authorities are not to be trusted, making them less likely to come forward as victims of or witnesses to crime," said **Linton Joaquin**, General Counsel of NILC. "Arizona's authorities should not allow public safety to take a back seat to racial profiling."

"African-Americans know all too well the insidious effects of racial profiling," said **Benjamin Todd Jealous**, President and Chief Executive Officer of the NAACP. "The government should be preventing police from investigating and detaining people based on color and accent, not mandating it. Laws that encourage discrimination have no place in this country anywhere for anyone."

The lawsuit was filed on behalf of labor, domestic violence, day laborer, human services and social justice organizations, including Friendly House, Services Employees International Union (SEIU) International, SEIU Local 5, United Food and Commercial Workers International (UFCW), Arizona South Asians for Safe Families (ASAFSF), Southside Presbyterian Church, Arizona Hispanic Chamber of Commerce, Asian Chamber of Commerce of Arizona, Border Action Network, Tonatierra Community Development Institute, Muslim American Society, Japanese American Citizens League, Valle del Sol, Inc, Coalición De Derechos Humanos, individual named plaintiffs who will be subject to harassment or arrest under the law and a class of similarly situated persons.

"This extreme law puts Arizona completely out of step with American values of fairness and equality," said **Julie Su**, Litigation Director of the Asian Pacific American Legal Center. "In a state where U.S. citizens of Japanese descent were interned during World War II, it is deeply troubling that a law that would mandate lower-class treatment of people of color, immigrants and others seen to be outsiders would pass in 2010."

"Day laborers have repeatedly defended their First Amendment rights in federal courts and successfully established their undeniable right to seek work in public areas," said **Pablo Alvarado**, Executive Director of NDLO. "Arizona's effort to

criminalize day laborers and migrants is an affront to the Constitution and threatens to disrupt national unity, and we are confident that federal courts will intervene to ensure the protection of our bedrock civil rights.”

Even prior to the passage of the statute, local enforcement of federal immigration law has already caused rampant racial profiling of Latinos in Arizona, most notably in Maricopa County. The ACLU, MALDEF and other members of the coalition have several pending lawsuits against government officials in Arizona because of civil rights abuses of U.S. citizens and immigrants.

Organizations and attorneys on the case, *Friendly House et al. v. Halliday et al.*, include:

ACLU Immigrants’ Rights Project: Jadwat, Lucas Guttentag, Cecillia Wang, Tanaz Moghadam and Harini P. Raghupathi;

MALDEF: Thomas A. Saenz, Nina Perales, Cynthia Valenzuela Dixon, Victor Viramontes, Gladys Limón and Nicolás Espiritu;

NILC: Joaquin, Karen C. Tumlin, Nora A. Preciado, Melissa S. Keaney, Vivek Mittal and Ghazal Tajmiri;

ACLU Foundation of Arizona: Dan Pochoda and Annie Lai;

APALC: Su, Ronald Lee, Yungsohn Park, Connie Choi and Carmina Ocampo

NDLON: Chris Newman;

NAACP: Jealous and Laura Blackburne;

Altshuler Berzon: Jonathan Weissglass;

Munger of Tolles & Olson LLP: Bradley S. Phillips, Joseph J. Ybarra, Susan T. Boyd and Yuval Miller;

Roush, Mccracken, Guerrero, Miller & Ortega: Daniel R. Ortega, Jr.

To view the complaint and accompanying documents, please click here:

http://maldef.org/legal/sb1070_complaint_final.pdf