



July 30, 2010

Special Immigration Alert:

Federal Judge Enjoins Key Parts of Arizona's Immigration Law

On July 28, 2010, Judge Susan R. Bolton of the U.S. District Court for the District of Arizona issued a preliminary injunction that prevents the most controversial sections of Arizona's new immigration law (SB 1070) from taking effect. While not finally deciding the constitutionality of SB 1070, the Court found that several of its provisions were likely unconstitutional because they were "preempted" by federal immigration laws and that the failure to issue the injunction would result in substantial harm to the public interest.

SB 1070 took effect on July 29, 2010, but many of the provisions that most angered opponents have been enjoined. These include:

- The section that requires an officer to make a reasonable attempt to determine the immigration status of a person stopped, detained or arrested if there's reasonable suspicion they are in the country illegally;
- The section that makes it a state crime not to apply for or carry "alien-registration papers" required by federal law;
- The section that makes it a crime for illegal immigrants to solicit, apply for or perform work; and
- The section that allows a warrantless arrest of a person where there is probable cause to believe that he or she has committed a public offense that makes the person removable from the United States.

The Court's ruling does not eliminate the discretion that Arizona police officers previously had regarding whether to assist with the enforcement of federal immigration laws. It just removes the requirement in SB 1070 that they must enforce federal immigration laws or risk private civil suits. The portions of SB 1070 that were not enjoined became effective at 12:01

CLIENT ALERT

a.m. yesterday.

Judge Bolton's decision followed hearings on three of seven federal lawsuits that challenged SB 1070. The plaintiffs included the U.S. Department of Justice, the American Civil Liberties Union, Phoenix and Tucson police officers, a number of municipalities, illegal immigrants and a number of non-profit groups. The preliminary injunction does not end the cases. Hearings must still be scheduled to resolve all seven lawsuits. Additionally, there will most likely be appeals both from the Court's preliminary injunction order and the eventual final determinations in each of the seven lawsuits. It is possible that the U.S. Supreme Court could review the issue unless it is addressed during the appeal challenging Arizona's law requiring employers to use E-Verify or lose their business license. To review a full copy of Judge Bolton's decision, please visit: www.azstarnet.com/online/pdf.

For more information or questions regarding the above, please contact:

New York
[Robert S. Groban, Jr.](mailto:Robert.S.Groban.Jr@ebglaw.com)
212/351-4689
rgroban@ebglaw.com

New York
[Pierre Georges Bonnefil](mailto:Pierre.Georges.Bonnefil@ebglaw.com)
212/351-4687
pbonnefil@ebglaw.com

Miami
[Hector A. Chichoni](mailto:Hector.A.Chichoni@ebglaw.com)
305/579-3270
hchichoni@ebglaw.com

Newark
[Patrick G. Brady](mailto:Patrick.G.Brady@ebglaw.com)
973/639-8261
pbrady@ebglaw.com

San Francisco
[Jang Im](mailto:Jang.Im@ebglaw.com)
415/398-3500
jim@ebglaw.com

Houston
[Nelsy Gomez](mailto:Nelsy.Gomez@ebglaw.com)
713/750-3136
ngomez@ebglaw.com



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