IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PEDRO LOZANO, HUMBERTO HERNANDEZ, ROSA LECHUGA, JOSE LUIS LECHUGA JOHN DOE 1 JOHN DOE 3 CASA DOMINICANA OF HAZLETON, INC., HAZLETON HISPANIC BUSINESS ASSOCIATION, PENNSYLVANIA STATEWIDE LATINO COALITION, JOHN DOE 7, and JANE DOE 5 Plaintiffs, v. CITY OF HAZLETON, Defendant.	:	CIVIL ACTION NO. 3:06-cv-01586-JMM (Hon. James M. Munley)

SECOND AMENDED COMPLAINT

INTRODUCTION AND NATURE OF THE ACTION

On July 13, 2006, the City of Hazleton ("Hazleton") passed the "Illegal Immigration Relief Act Ordinance" ("Prior Ordinance") and announced that such Ordinance would take effect in sixty days. A Complaint was filed with this Court on August 15, 2006 challenging that Prior Ordinance on several constitutional and other grounds and, on September 2, 2006, this Court approved a Stipulation

whereby Hazleton agreed not to enforce the Prior Ordinance and Plaintiffs agreed not to seek an injunction of such Ordinance.

Not to be dissuaded, Hazleton then began anew to draft and enact ordinances to accomplish its purpose to force persons deemed to be "illegal aliens" from the community. On September 21, 2006, Hazleton enacted Ordinance 2006-18, also entitled the "Illegal Immigration Relief Act Ordinance" ("Immigration Ordinance"). On October 30, 2006, a First Amended Complaint was filed challenging, inter alia, the Immigration Ordinance on several constitutional and other grounds. On October 31, 2006, the Court entered a Temporary Restraining Order prohibiting Hazleton from enforcing, inter alia, the Immigration Ordinance until November 14, 2006. On November 3, 2006, the Court approved a Stipulation and Order, wherein the Court's restraining Order was extended for 120 days or until a consolidated trial was held and a decision was rendered, whichever date was earlier.

On December 28, 2006, in response to the First Amended Complaint, Hazleton City Counsel adopted Ordinance 2006-40, which amended the Immigration Ordinance by adding §7 (Implementation and Process). Herein, the Immigration Ordinance as amended by Ordinance 2006-40 is referred to as the "Revised Immigration Ordinance."

Using this litigation as its learning curve, Hazleton has engaged in repeated attempts to avoid the several, and insurmountable, constitutional and other flaws that doomed the Prior Ordinance and similarly condemn the Revised Immigration Ordinance. Hazleton's attempts to linguistically craft itself out of the legal deficiencies identified in the Complaint and First Amended Complaint have not succeeded, and the Revised Immigration Ordinance remains constitutionally deficient and otherwise impermissible under applicable laws and unable to withstand judicial scrutiny.

Despite the absence of any persuasive evidence in its favor, Hazleton continues to blame many of its ills, including crime, economic burdens and social dilemmas on "illegal aliens." Hazleton's motivations have become abundantly clearer with each of the various ordinances it has adopted and through the discovery that has taken place in this case to date. The cosmetic changes adopted in Ordinance 2006-40 do nothing to address the underlying deficiencies in Hazleton's misguided attempt to be the first municipality in the nation to implement and vigorously enforce an anti-immigration ordinance. The Revised Immigration Ordinance and the Tenant Registration Ordinance continue to ignore the subtleties, complexities and primacy of Federal immigration law and violates the Supremacy Clause because it unlawfully infringes on the Federal government's exclusive authority over immigration matters. The Revised Immigration

Ordinance continues to violate constitutionally protected due process standards. The Revised Immigration Ordinance continues to impart invidious discrimination based on alienage, and continues to violate the equal protection rights of Plaintiffs under the U.S. Constitution and 42 U.S.C. §1981. The Revised Immigration Ordinance and Tenant Registration Ordinance continue to violate the Federal Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.* and Plaintiffs' right to privacy under the U.S. and Pennsylvania constitutions. In addition to these serious deficiencies, the Revised Immigration Ordinance continues to violate Pennsylvania statutory law governing the limited powers granted to home rule municipalities and protections afforded under the Landlord and Tenant Act of 1951, 68 P.S. §§ 250.101, *et seq.* ("L/T Act").

The harms initiated with the Prior Ordinance and perpetuated with the Immigration Ordinance remain unabated, and the Revised Immigration Ordinance continues to injure Plaintiffs at this time. Thus, this Second Amended Complaint seeks injunctive and other relief to prevent Hazleton from trampling on Plaintiffs' constitutional, statutory and other legal rights. Through this Second Amended Complaint, Plaintiffs ask this Court for the entry of judgment declaring that the Revised Immigration Ordinance and Tenant Registration Ordinance are unconstitutional and unlawful, and granting equitable relief in the form of a

permanent injunction against the enforcement of the those Ordinances, and for costs and attorneys fees.

PARTIES

1. Plaintiff Pedro Lozano ("Lozano") is a resident of Hazleton. Plaintiff Lozano owns multiple rental units in Hazleton.

2. Plaintiff Lozano already has lost previously contracted tenants due to the Prior and Immigration Ordinances. Upon information and belief, Plaintiff Lozano has lost prospective tenants due to the Revised Immigration Ordinance. Plaintiff Lozano does not know the immigration status of his present tenants, nor of the tenants he lost.

3. Plaintiff Humberto Hernandez ("Hernandez") is a resident of Hazleton. Plaintiff Hernandez owns a rooming house and three rental homes.

4. Plaintiff Hernandez has already lost tenants due to the Prior and Immigration Ordinances. Upon information and belief, Plaintiff Hernandez has lost prospective tenants due to the Revised Immigration Ordinance. Plaintiff Hernandez does not know the immigration status of his present tenants, nor of the tenants he lost.

5. Herein, Plaintiff Lozano and Hernandez are collectively referred to as "Plaintiff Landlords."

6. Upon information and belief, some of the present tenants of Plaintiff Landlords lack identity data to demonstrate that they are not "illegal aliens," as such term is defined under in §3.D. of the Revised Immigration Ordinance. Under § 5.A.(3) of the Revised Immigration Ordinance, each of the Plaintiff Landlords is obligated to obtain, and provide to the Hazleton Code Enforcement Office ("Code Office") within three days after a demand for same by the Code Office, identity data for tenants or others that occupy a dwelling unit owned by the Plaintiff Landlord, or face sanctions under the Revised Immigration Ordinance for a failure to do so.

7. Upon information and belief, Plaintiff Landlords are renting, or may rent, to tenants who are deemed to be "illegal aliens" under the Revised Immigration Ordinance, which places or would place Plaintiffs in violation of the Ordinance. Under §5 of the Revised Immigration Ordinance, if Plaintiff Landlords do not evict such tenants five business days after receiving notice from Hazleton that the status of the tenant as an "illegal alien" has been verified, Plaintiff Landlords will have their rental license suspended until one day after the violation has ended. During the period of suspension, Plaintiff Landlords will be prohibited from collecting any rent, payment, fee, or any other form of compensation, from any tenant or occupant in the dwelling unit.

8. Unless the Revised Immigration Ordinance and Tenant Registration Ordinance are permanently enjoined and declared invalid, Plaintiff Landlords will lose current/prospective tenants, suffer loss of rents and be subject to significant monetary fines.

9. Plaintiffs Lozano and Hernandez have hired independent contractors and domestic workers to perform repair and other services in their rental units. Plaintiffs Lozano and Hernandez do not know the immigration status of these service persons. If Plaintiffs Lozano and Hernandez do not participate in the Basic Pilot Program (hereinafter described), and if one of these persons is deemed to be an "illegal alien," Plaintiffs Lozano and Hernandez will be in violation of §4 of Revised Immigration Ordinance and subject to sanctions provided by that Ordinance.

10. Unless the Revised Immigration Ordinance and Tenant Registration Ordinances are permanently enjoined and declared invalid, Plaintiffs Lozano and Hernandez will continue to lose income and/or incur significant monetary fines.

11. Plaintiffs Rosa and Jose Luis Lechuga ("Lechuga") are husband and wife and are residents of Hazleton. Plaintiffs Lechuga own a grocery store in Hazleton. They formerly owned a restaurant in Hazleton as well.

12. Plaintiffs Lechuga came to the U.S. from Mexico in 1981. They moved to Hazleton in 1991 to work on tomato and cucumber farms.

13. Plaintiffs Lechuga opened their store approximately eight years ago; they opened their restaurant at the beginning of 2006.

14. Plaintiffs Lechuga have lost significant revenue since the Prior Ordinance and the Revised Immigration Ordinance were enacted. Before the enactment of the Prior Ordinance, Plaintiffs Lechuga served between 45-130 customers per day at the restaurant, and between 95-130 customers per day at the store. Since the enactment of the Prior Ordinance, they served between 6-7 persons per day at the restaurant and 20-23 persons per day at the store. The loss in revenue and profit resulting from the passage of the Prior and Revised Immigration Ordinances, and the Tenant Registration Ordinance (hereinafter defined), has forced Plaintiffs Lechuga to close the restaurant. Due to the losses of business income, Plaintiffs Lechuga fear they will be unable to maintain ownership of their residential home and the commercial property where the grocery store is located.

15. Plaintiffs Lechuga are required to have a permit or license from Hazleton to operate their business.

16. Plaintiffs Lechuga have hired individuals to work in their business. If Plaintiffs Lechuga do not participate in the Basic Pilot Program, and if one of their employees (or an individual with whom they contract) is deemed to be an "illegal alien," Plaintiffs Lechuga are subject to the sanctions set forth under §4 of the

Revised Immigration Ordinance, even when Plaintiffs Lechuga have fully complied with Federal law in their hiring practices. Further, if identity information for any employee is requested by Hazleton following the filing of a complaint under the Revised Immigration Ordinance, and if Plaintiffs Lechuga are not able – for any reason – to provide the requested information within three days of the request, they are subject to having their business license suspended, even when Plaintiffs Lechuga are in full compliance with Federal immigration laws.

17. Unless the Revised Immigration Ordinance and Tenant Registration Ordinance are permanently enjoined and declared invalid, Plaintiffs Lechuga will continue to lose income and/or incur significant monetary fines.

18. Plaintiff John Doe 1 is a tenant and resident of Hazleton. He has lived in Hazleton for over six years with his wife and three school-age children. He has lived in the U.S. for almost two decades. He is originally from Mexico.

19. Plaintiff John Doe 3 is a tenant and resident of Hazleton. He has lived in Hazleton for over four years. He lives with his wife and two children. He is originally from Mexico.

20. Plaintiff John Doe 3 and his wife are not U.S. citizens or lawful permanent residents. His children are both U.S. citizens.

21. Plaintiff John Doe 7 and Plaintiff Jane Doe 5 are husband and wife. They are tenants and residents of Hazleton. They have lived in Hazleton for over five years. They are originally from Columbia.

22. Plaintiff John Doe 7 and his wife Plaintiff Jane Doe 5 are not U.S. citizens or lawful permanent residents.

23. Plaintiffs John Does 3 and 7 and Jane Doe 5 reasonably fear that, if the Revised Immigration Ordinance is enforced, they will be evicted from their current homes.

24. Plaintiffs Lozano, Hernandez, Rose and Jose Luis Lechuga, John Does 1, 3 and 7 and Jane Doe 5 are collectively referred to herein as "Individual Plaintiffs."

25. Plaintiff Casa Dominicana of Hazleton, Inc. ("Casa Dominicana") is a Pennsylvania non-profit organization.

26. Casa Dominicana's primary purpose is to promote the Hispanic culture and empower the Hispanic community of Hazleton. Before the enactment of the Prior Ordinance, Casa Dominicana had approximately 150 members. Its membership has now dwindled to approximately 110 members.

27. Casa Dominicana does not require its members to prove their citizenship, residency or immigration status as a condition to membership. The Prior Ordinance, the Revised Immigration Ordinance, the Tenant Registration

Ordinance and the English Only Ordinance (hereinafter defined) have created great hostility towards the Latino community in Hazleton and therefore adversely affects the work Casa Dominicana performs in Hazleton and for Hazleton residents.

28. Casa Dominicana's membership and constituency (herein, collectively "members") includes individuals - many but not all of whom are Latino - who reside and who are employed in and around Hazleton, some of whom have school-aged children. The membership includes persons who have Spanish as their native tongue with a limited proficiency in English.

29. The interests Casa Dominicana seeks to protect through this action are germane to its purpose, and neither the claims asserted nor the relief requested herein require the personal participation of Casa Dominicana's members.

30. Plaintiff Hazleton Hispanic Business Association ("HHBA") is a Pennsylvania non-profit organization. HHBA's purpose is to promote the business interests of its members. HHBA does not require its individual members to prove their citizenship, residency or immigration status as a condition to membership. The Prior Ordinance, the Revised Immigration Ordinance, the Tenant Registration Ordinance and the English Only Ordinance have generated great hostility towards the Latino community in Hazleton and therefore adversely affect the work HHBA performs in Hazleton and for Hazleton businesses and residents.

31. HHBA's membership and constituency (herein, collectively "members") includes individuals - many but not all of whom are Latino or who service Latino and other customers - who reside or operate businesses in and around Hazleton, some of whom have school-aged children. The membership includes business owners and landlords.

32. The HHBA's membership includes individuals who have Spanish as their native tongue with a limited proficiency in English.

33. The interests HHBA seeks to protect through this action are germane to its purpose, and neither the claims asserted nor the relief requested herein require the personal participation of HHBA's members.

34. Plaintiff Pennsylvania Statewide Latino Coalition ("PSLC") is a Pennsylvania non-profit organization. Plaintiff PSLC is a non-partisan alliance of Latino leaders, organizations, community activists, students, and individuals that serves as a statewide institutional catalyst for positive social change and political advancement. Its primary purpose is as an advocacy organization for Latinos in the Commonwealth of Pennsylvania. PSLC does not require its members to prove their citizenship, residency or immigration status as a condition to membership.

35. PSLC's membership and constituency (herein, collectively "members") includes individuals who reside or operate businesses in and around Hazleton, including but not limited to Dr. Agapito Lopez and Anna Arias, some of

whom have school-aged children. PSLC's members include persons who have Spanish as their native tongue with a limited proficiency in English.

36. The interests PSLC seeks to protect through this action are germane to its purpose, and neither the claims asserted nor the relief requested herein require the personal participation of PSLC's members and constituents.

37. PSLC has expended, and will continue to expend, its own resources to advocate against enactment and enforcement of the Revised Immigration Ordinance and similar ordinances throughout the Commonwealth of Pennsylvania, as well as in providing assistance to its members impacted by the Revised Immigration Ordinance.

38. Plaintiffs Casa Dominicana, HHBA and PSLC are collectively referred to herein as "Plaintiff Organizations."

39. Defendant City of Hazleton ("Hazleton") is a city of the third class existing pursuant to Pennsylvania law, with its principal place of business located at Hazleton City Hall, Hazleton, Luzerne County, Pennsylvania 18201.

40. At all relevant times described herein, Hazleton acted through its duly authorized agents, Mayor Louis J. Barletta ("Mayor Barletta"), Joseph Yannuzzi, President of City Council, Jack Mundie, Vice-President of City Council, and City Council members Evelyn Graham, Tom Gabos and Robert Nilles, as well as those charged with Code enforcement..

41. At all times alleged herein, Hazleton's officials, employees and agents were acting under color of state law.

JURISDICTION AND VENUE

42. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 over Plaintiffs' causes of action under the Constitution of the United States, 42 U.S.C. §§ 1981 and 1983, the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq*., and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202. This Court has supplemental jurisdiction over Plaintiffs' causes of action under the Constitution and statutes of the Commonwealth of Pennsylvania pursuant to 28 U.S.C. § 1367.

43. This Court has personal jurisdiction over Hazleton, which is located in the Middle District of Pennsylvania.

44. Venue is proper in the Middle District of Pennsylvania pursuant to 28 U.S.C. §1391(a) in that Hazleton is subject to personal jurisdiction within the Middle District of Pennsylvania, and the events which give rise to this action occurred within the Middle District of Pennsylvania.

THE ORDINANCES

45. On July 13, 2006 the City of Hazleton ("Hazleton") passed the "Illegal Immigration Relief Act Ordinance," Ordinance 2006-10 ("Prior Ordinance").

46. On July 13, 2006, Ordinance 2006-13, entitled "Establishing a Registration Program for Residential Rental Properties; Requiring All Owners of Residential Rental Properties to Designate an Agent for Service of Process; and Prescribing Duties of Owners, Agents and Occupants; Directing the Designation of Agent; Establishing Fees for the Costs Associated with the Registration of Rental Property; and Prescribing Penalties for Violation" ("Tenant Registration Ordinance") had its first reading before Hazleton City Council.

47. On August 15, 2006, the Tenant Registration Ordinance had its second and third readings before Hazleton City Council. On that same date, August 15, 2006, the Tenant Registration Ordinance was enacted by Hazleton. A true and correct copy of the Tenant Registration Ordinance is attached hereto as Exhibit "A."

48. On September 8, 2006, Ordinance 2006-18, entitled the "Illegal Immigration Relief Act Ordinance" ("Immigration Ordinance") had its first reading before Hazleton City Council. On September 12, 2006, the Immigration Ordinance had its second and third readings before Hazleton City Council. On September 21, 2006, the Immigration Ordinance was enacted by Hazleton. As of the date of this Second Amended Complaint, the Immigration Ordinance has not been repealed by Hazleton. A true and correct copy of the Immigration Ordinance is attached hereto as Exhibit "B."

49. On December 13, 2006, Ordinance 2006-40, entitled "Illegal Immigration Relief Act Implementation Amendment" (herein, "Ordinance 2006-40") had its first reading before Hazleton City Council. No advance public notice was given by Hazleton of its intention to consider or adopt Ordinance 2006-40.

50. On December 28, 2006, Ordinance 2006-40 had its second and third readings before Hazleton City Council and was adopted. Ordinance 2006-40 amended the Immigration Ordinance by adding §7 (Implementation and Process). A true and correct copy of Ordinance 2006-40 is attached hereto as Exhibit "C."

51. Both Mayor Barletta and counsel for the City of Hazleton stated publicly in media interviews and before City Council that Ordinance 2006-40 was enacted to address ambiguities and overbroad provisions contained in the Immigration Ordinance. However, instead of merely attempting to clarify and limit the Immigration Ordinance, Ordinance 2006-40 imposes additional duties and obligations not included previously in the Immigration Ordinance.

52. On December 13, 2006, Ordinance 2006-35 captioned "Establishing a Registration Program for Residential Rental Properties; Requiring all Owners of Residential Rental Properties to Designate an Agent for Service of Process; and Prescribing Duties of Owners and Agents; Directing the Designation of Agents; Establishing Fees for the Costs Associated with the Registration of Rental

Property; and Prescribing Penalties for Violation" (herein, "Property Registration Ordinance") had its first reading before Hazleton City Council.

53. On December 28, 2006, the Property Registration Ordinance had its second and third readings before Hazleton City Council and was adopted. A true and correct copy of the Property Registration Ordinance is attached hereto as Exhibit "D."

54. Hazleton has not acted to repeal the Tenant Registration Ordinance, notwithstanding its adoption of the Property Registration Ordinance.

55. On September 8, 2006, Ordinance 2006-19, entitled the "English Only Ordinance" ("English Only Ordinance") had its first reading before Hazleton City Council. On September 12, 2006, the English Only Ordinance had its second and third readings before Hazleton City Council. On September 21, 2006, the English Only Ordinance was enacted by Hazleton. A true and correct copy of the English Only Ordinance is attached hereto as Exhibit "E."

OPERATION OF THE ORDINANCES

56. Hazleton adopted the Revised Immigration Ordinance to, in alia, prevent the employment of "unlawful workers," as that term is defined in §3, from working in the city, even on a temporary basis. To effect this goal, the Revised Immigration Ordinance renders it unlawful for any "business entity" (as that term is defined in the Ordinance) to recruit, hire for employment, continue to employ, or

permit, dispatch or instruct (collectively herein, "hire") any "unlawful workers." Additionally, business entities must attest to their compliance with the Revised Immigration Ordinance when they apply for a business permit to operate in Hazleton.

57. The Revised Immigration Ordinance sets forth enforcement mechanisms for the employment sections of the Ordinance. Any Hazleton official, business entity or resident may make a complaint to the Hazleton Code Enforcement Office ("Code Office").

58. To be considered a "valid complaint," the complaint must be submitted in a signed writing, and include an allegation that describes the alleged violators(s), the actions constituting the violation, and the date and location where the actions occurred.

59. Upon receipt of a "valid complaint" regarding an alleged "unlawful worker," the Code Office is required to request, within three business days, "identity information" from the business entity regarding the worker. The type of "identity information" to be requested is not defined in the Immigration Ordinance.

60. Upon receipt of the identity information, the Code Office is directed to submit the data required by the Federal government to the Immigration and Customs Enforcement ("ICE") to verify the immigration status of the worker.

Upon verification of the identify information, the Code Officer must provide the business entity with written confirmation of the immigration status.

61. If the business entity fails, within three business days of receipt of a request from the Code Office, to provide the requested identity information, the Code Office is required to suspend the business permit of the business entity.

62. If the business entity is notified by the Code Office that a violation of the Revised Immigration Ordinance has occurred, the entity must "correct" the violation within three business days.

63. If the business entity does not correct the violation within three business days, the Code Office is required to suspend the business permit of the entity. However, the Code Officer is directed not to suspend the business permit of the entity if the business entity previously had used the Basic Pilot Program to verify the worker's status. The Basic Pilot Program is a voluntary, experimental program created by Congress to permit employers to electronically verify workers' employment eligibility with the U.S. Dept. of Homeland Security and the Social Security Administration.

64. A suspended business permit is restored to a business entity one business day after the entity submits a sworn affidavit stating that the violation has ended. The affidavit must include a description of the specific measures and action

taken by the entity to end the violation and the name, address and other "adequate identifying information" of the unlawful worker.

65. If two or more unlawful workers are verified by the Code Officer, then - to reinstate its business permit - the business entity must submit, in addition to the sworn affidavit, documentation acceptable to Hazleton, confirming that the entity has enrolled and will participate in the Basic Pilot Program.

66. For a second or subsequent violation, the Code Office is required to suspend the entity's business permit for twenty days.

67. The Revised Immigration Ordinance provides that the discharge by a business entity of any employee who is not an unlawful worker is an "unfair business practice" if, at the time of the discharge, the entity was not participating in the Basic Pilot Program and the entity was employing an unlawful worker. The Revised Immigration Ordinance purports to grant any discharged employee who is not an unlawful worker a private cause of action against the business entity, to seek damages of three times the actual damages sustained by the discharged employee and attorney's fees and costs. The damages apply from the date of discharge to the date the discharged employee procures new employment at an equivalent rate of compensation, not to exceed 120 days.

68. In the First Amended Complaint, Plaintiffs alleged that the suspension of business license of the business entity for a failure to provide requested identity

information of a worker following receipt of a request from the Code Office, is mandatory under the Immigration Ordinance and is not dependent upon any finding that an "unlawful worker" has been hired. Ordinance 2006-40 does not forestall a suspension under these circumstances. Ordinance 2006-40 provides in §7.C.(2) that a business entity can toll a suspension period imposed by §4.B.(4) if the business entity acquires additional information from the worker and requests a secondary or additional verification of the worker's status under the Basic Pilot Program. However, Ordinance 2006-40 provides no opportunity for a business entity to challenge or toll a suspension mandated under §4.B.(3).

69. In the First Amended Complaint, the Plaintiffs alleged that the Immigration Ordinance required that the business entity must "correct" a violation within three business days following notification by the Code Office that a violation of the Immigration Ordinance has occurred, but that the nature of the "correction" of a violation is not defined in the Immigration Ordinance. Ordinance 2006-40 attempts to define the "corrections" that a business entity must undertake to void sanctions under the Revised Immigration Ordinance, to include the following: (1) the business entity must terminate (or attempt to terminate) the worker's employment or (2) the business entity must acquire information from the worker and request a secondary or additional verification from the Federal government of the worker's authorization.

70. Section 5 of the Revised Immigration Ordinance mandates a scheme similar to the employment provisions for persons and business entities (herein "Landlords") that own a dwelling unit in Hazleton.

71. The Revised Immigration Ordinance renders it unlawful for any Landlord to "harbor" an "illegal alien." Under §5 of the Revised Immigration Ordinance, "harboring" is defined as when a Landlords lets, leases or rents a dwelling unit to an "illegal alien," knowingly or in reckless disregard of the fact that the alien has come to, entered or remains in the U.S. in violation or law. Harboring also includes suffering or permitting the occupancy of a dwelling unit by an illegal alien, if the Landlord is knowingly or in reckless disregard of the fact that the alien has come to, entered or remain in the U.S. in violation or law.

72. The Revised Immigration Ordinance sets forth enforcement mechanisms for the harboring sections of the Ordinance.

73. Any Hazleton official, business entity or resident may make a complaint to the Code Office. To be considered a "valid complaint," the complaint must be submitted in a signed writing, and include an allegation that describes the alleged violators(s), the actions constituting the violation, and the date and location where the actions occurred.

74. The Revised Immigration Ordinance contains one provision defining an invalid complaint for both the employment and harboring sections, stating:

> A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced.

75. Upon receipt of a "valid complaint" regarding an alleged "illegal alien," the Code Office is directed to submit the data required by the Federal government to the ICE to verify the immigration status of the suspected individual.

76. Upon information and belief, to obtain the required ICE data, the Code Office will request identity information regarding the suspected "illegal alien" from the Landlord.

77. Section 5.A.(3) of the Revised Immigration Ordinance provides that a Landlord is deemed in violation of the Ordinance for each business day that the Landlord fails to provide such identity information about a tenant or occupant, beginning three days after the Landlord receives written notice from the Code Office to provide such identity information.

78. Upon verification of the identify information from the ICE, the Code Office must provide the Landlord with written confirmation of the suspected "illegal aliens" immigration status.

79. After Hazleton has verified the immigration status of an "illegal alien," if a Landlord fails to "correct" a violation of the Revised Immigration Ordinance within five days, the Code Office is required to deny or suspend the Landlord's rental license, pursuant to §5.A.(4).

80. During a suspension, the Landlord is prohibited by the Revised Immigration Ordinance from collecting rent, payment, fee or other compensation from any tenant or occupant of the dwelling unit, even from those whose lawful immigration status is undisputed.

81. A suspended rental license may be restored to a Landlord one business day after the entity submits a sworn affidavit stating that the violation has ended. The affidavit must include a description of the specific measures and action taken by the entity to end the violation and the name, address and other "adequate identifying information" of the "illegal alien."

82. A Landlord that violates the Revised Immigration Ordinance is subject to the imposition of a $250.00 fine for day any "harboring" has occurred, for each adult "illegal alien" harbored in the dwelling unit; and imposition of a $250.00 fine for any second or subsequent violation of the Ordinance, in addition to the suspension of the rental license.

83. In the First Amended Complaint, the Plaintiffs alleged that the Immigration Ordinance permits the suspension of a Landlord's rental license for a failure to "correct," within five days, a violation of the Immigration Ordinance, but that the nature of the "correction" was not defined in the Immigration Ordinance. Ordinance 2006-40 attempts to define the types of "corrections" that will avoid the suspension of a landlord's rental license, to include (1) efforts to remove the tenant

from the dwelling unit or (2) acquiring unspecified "additional information" from the individual alleged to be an "illegal alien" and requesting Hazleton to obtain a secondary or additional verification from the Federal government as to the individual's status.

84. The Tenant Registration Ordinance requires that each person aged 18 years or older who desires to occupy a rental dwelling must obtain, and pay for, an occupancy permit from Hazleton. The Tenant Registration Ordinance requires that applicants for occupancy permits must be made upon forms provided by the Code Officer and must include "[p]roper identification showing proof of legal citizenship and/or residence."

85. Following the filing of Plaintiffs' First Amended Complaint which alleged numerous flaws in the Tenant Registration Ordinance, Hazleton enacted the Property Registration Ordinance (Ordinance 2006-35) on December 28, 2006, which requires, inter alia, that Landlords obtain a permit for each dwelling unit offered for rent in Hazleton. The Property Registration Ordinance contains no requirement that tenants or occupants obtain an occupancy permit or that such persons provide "proper identification showing proof of legal citizenship and/or residence" to the Code Office. Nevertheless, the Revised Immigration Ordinance contains requirements that Landlords obtain identity information from tenants and/or occupants and has not to date been repealed.

86. In the English Only Ordinance, English is declared to be the official language of the City of Hazleton. The English Only Ordinance specifies that official actions of Hazleton that bind or commit the city or that give the appearance of presenting the official view or position of Hazleton shall be taken in English only. The English Only Ordinance further requires Hazleton to use English for all documents, regulations, orders, transactions, proceedings, meetings, program or publications.

87. The English Only Ordinance protects individuals who speak English only by declaring such persons eligible to participate in all programs, benefits and opportunities, provided by Hazleton. The English Ordinance does not expressly permit eligibility in Hazleton's programs, benefits and opportunities to individuals who speak both English and another language or who speak only a language other than English.

88. The English Only Ordinance provides that Hazleton is prohibited from penalizing or impairing the rights, obligations or opportunities available to persons who speak English only. The English Only Ordinance does not state that Hazleton is prohibited from penalizing or impairing the rights, obligations or opportunities available to persons who speak languages other than English.

89. Prior to the enactment of the English Only Ordinance, the Code Office had translated into Spanish various forms and notices issued or required by

Hazleton. Hazleton incurred no cost or expense in translating the forms and notices into Spanish. The translation service was provided for free as a public service to the substantial Spanish-speaking population in Hazleton.

90. Following the enactment of the English Only Ordinance, Mayor Barletta pronounced before Hazleton City Council that city employees would not use or distribute any translated forms or notices. A rationale put forth by the Mayor in support of this pronouncement was that there could be persons who speak languages other than Spanish, who would not be assisted by the availability of Spanish language forms and notices. That rationale ignores the fact that Hazleton, by the Mayor's own admission, has some eight thousand recent Latino immigrants whose primary fluency is in the Spanish language.

91. Hazleton City Council was not advised or informed before adoption of the English Only Ordinance that the translation of city forms and notices into Spanish had not cost Hazleton any money.

92. No current employee of the Code Office is fluent in Spanish.

93. Following enactment of the English Only Ordinance, the Code Office collected all available copies of the Spanish-translated forms and notices and delivered them to the Mayor's office. Since the enactment of the English Only Ordinance, Hazleton has not used or distributed any of the existing previously translated forms or notices and refuses to make them available to the public.

FEDERAL REGULATION OF IMMIGRATION

94. The power to regulate immigration is unquestionably an exclusively Federal power that derives from the Constitution's grant to the Federal government of the power to “establish a uniform Rule of Naturalization," U.S. Const. art. I, § 8, cl. 4., and to "regulate Commerce with foreign Nations." *Id*., cl. 3. In addition, the Supreme Court has held that the Federal government's power to control immigration is inherent in the nation's sovereignty.

95. Pursuant to its exclusive power over matters of immigration, the Federal government has established a comprehensive system of laws, regulations, procedures, and administrative agencies that determine, subject to judicial review, whether and under what conditions a given individual may enter, stay in, and work in the United States.

96. In addition to provisions that directly regulate immigrants’ entry and behavior, the Federal immigration laws also include provisions directed at other classes of individuals, such as those who employ or assist immigrants. Thus, the comprehensive Federal immigration scheme includes sanctions, documentation, and anti-discrimination provisions directly applicable to employers, as well as a criminal and civil scheme applicable to those who assist individuals who are not lawfully in the United States.

97. The Federal government has also chosen to allow certain categories of non-citizens, and certain individual non-citizens, to remain in the United States, even though such non-citizens may not have valid immigrant (permanent) or non-immigrant (temporary) status and/or may be removable under the Federal Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101, *et seq*.

98. Federal laws and policies aimed at reducing illegal immigration include safe harbor and other provisions regarding the appropriate reach of such laws. For example, employers who have complied in good faith with the employment documentation procedures set forth in the INA have an affirmative defense to liability under the INA's employer-sanctions scheme.

99. These laws, procedures, and policies created by the Federal government regulate immigration and confer rights in a careful balance reflecting the national interest.

FIRST CAUSE OF ACTION
VIOLATION OF THE SUPREMACY CLAUSE

100. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 99 above as though set forth at length herein.

101. Article VI, Section 2, of the United States Constitution provides:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound

> thereby, any Thing in the Constitution of Laws of any State to the Contrary notwithstanding.

102. The Supremacy Clause mandates that Federal law preempts any state regulation of any area over which Congress has expressly or impliedly exercised exclusive authority or which is constitutionally reserved to the Federal government.

103. The power to regulate immigration is an exclusively Federal power.

104. The Revised Immigration Ordinance, in its entirety, is admittedly a law purporting to regulate immigration and the incidents thereof.

105. The Revised Immigration Ordinance and the Tenant Registration Ordinance usurp the Federal government's exclusive power over immigration and naturalization and its power to regulate foreign affairs.

106. The Federal government already has enacted a comprehensive statutory and regulatory scheme governing immigration, including the Immigration and Nationality Act, ("INA"), 8 U.S.C. §§1101 *et seq.*

107. The Revised Immigration Ordinance and the Tenant Registration Ordinance are preempted because they attempts to legislate in fields occupied by the Federal government and because it conflicts with Federal laws, regulations, policies and objectives. The Supremacy Clause of the U.S. Constitution requires that any state or local law regulating the conduct of noncitizens must be invalidated if it (1) amounts to an attempt to regulate immigration; (2) operates in a field

occupied by the Federal government or (3) stands as an obstacle to Federal law. Both Ordinances fail under all three standards.

108. The intent and effect of the Revised Immigration Ordinance and the Tenant Registration Ordinance is to regulate immigration in Hazleton independently of the Federal government. The general scheme of these Ordinances differs from and interferes with the integrated Federal system of immigration regulation. These Ordinances cannot stand, for they regulates immigration, an area constitutionally reserved to the Federal government.

109. The Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 *et seq.*, and its associated regulations in Title 8 of the Code of Federal Regulations, contain a myriad of interrelated provisions establishing, among other things, numerous immigration categories; civil and criminal sanctions for various violations; and extensive procedures for determining status and removability. Under the Supremacy Clause, the Federal government has the authority to enforce the statutes and regulations, confer benefits, make discretionary determinations, undertake adjudication, and otherwise administer the immigration laws.

110. In the INA, Congress specifically has addressed both of the areas covered by the Revised Immigration Ordinance: sanctions for those who employ unauthorized aliens and those who harbor immigration violators. See 8 U.S.C. §§ 1324a-1324b (employer sanctions scheme) and 1324 (harboring provision). The

INA contains safeguards such as a "safe harbor" provision for employers who are presented with facially valid documents; restrictions on reverification of employees after they are hired; extensive antidiscrimination provisions; prohibitions on employers' requesting additional documents once an employee presents minimally adequate documentation; a 10-day cure period for good-faith violations; and a graduated series of penalties after adjudication by an administrative law judge. Moreover, the INA specifically prohibits "any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee, unauthorized aliens."

111. The Federal government retains and in fact exercises the power to investigate employment of unauthorized aliens at workplaces and has publicly raided workplaces allegedly employing illegal alien.

112. Ultimately, the effect of the Revised Immigration Ordinance and Tenant Registration Ordinance is to upset the system established by Congress in each of these areas by implementing Hazleton's own enforcement mechanism, penalties, and interpretations in place of the Federal system, detracting from and impeding the integrated scheme of regulation created by Congress.

113. The Revised Immigration Ordinance defines a group of individuals as "illegal aliens" and sets forth a scheme intended to eliminate this group of

individuals from Hazleton by forbidding their employment and residency - with the intent and effect of forcing them to leave the city.

114. The Revised Immigration Ordinance classifies as "illegal" many individuals who the Federal government allows to reside or work in the United States. Plaintiff John Doe 1, in particular, previously was included within the definition of "illegal alien" under the Ordinance at a time he was living and working in the United States with the full knowledge of the Federal government, notwithstanding that no Federal law contains express permission for him to so live and work in the United States.

115. Under Federal law, various categories of persons can receive Federal permission to work, and implicitly to stay and reside, in the United States even though they may be violating immigration laws. For example, such persons may have pending applications to adjust to a lawful status pursuant to 8 U.S.C. § 1255(i). Similarly, certain persons released from detention pursuant to legal mandates and restrictions imposed by the Supreme Court, though subject to an order of removal, are permitted to stay and work in the U.S. In addition, persons who are applying for or have been granted "temporary protected status" are permitted to stay and work in the U.S. if they meet certain requirements, notwithstanding the fact that they are otherwise removable. Federal officials may also exercise discretion not to deport persons who are otherwise removable. By

denying work and housing opportunities to every individual who is "not lawfully present," the Revised Immigration Ordinance and Tenant Registration Ordinance run roughshod over this complex system of Federal classification and discretion.

116. The Tenant Registration Ordinance prohibits landlords from permitting occupancy of a dwelling unit by any person aged 18 years or older ("Occupant"), unless each Occupant has obtained an occupancy permit from Hazleton. The Tenant Registration Ordinance requires each Occupant to obtain, and pay for, an occupancy permit. Applicants for occupancy permits must include "[p]roper identification showing proof of legal citizenship and/or residence." If an owner permits an unregistered occupant to occupy the dwelling unit, or if an Occupant permits individuals who do not have an occupancy permit to occupy the dwelling unit, the owner is liable for sanctions under the Tenant Registration Ordinance, unless the Owner takes reasonable steps to remove the unauthorized person from the dwelling unit within ten (10) days of learning of the unregistered occupancy. If the owner fails to remove any person lacking an occupancy permit, the owner is liable for significant monetary sanctions under the Tenant Registration Ordinance, including a $1,000 fine for each unregistered occupant and $100 per day fine for each unregistered occupant.

117. The Tenant Registration Ordinance is also at odds with Federal immigration law. The Tenant Registration Ordinance requires each individual

occupant of any rental unit to obtain an occupancy permit from the City, and requires applicants for occupancy permits to provide "proof of legal citizenship and/or residency." Upon information and belief, Hazleton will accept from applicants only documentation of U.S. citizenship or residency status, and will deny an occupancy permit to persons who lack such documentation for whatever reason, even if the individual is permitted under the Federal immigration system to live and stay in the United States.

118. The Revised Immigration Ordinance and Tenant Registration Ordinance adversely affect the Individual Plaintiffs and members of the Plaintiff Organizations including individuals who are allowed to remain and/or work in the United States, by subjecting them to displacement from employment and the rental or occupancy of dwelling units in Hazleton.

119. The Revised Immigration Ordinance contains specific incompatibilities and inconsistencies with Federal law.

120. The Revised Immigration Ordinance mandates that businesses enroll in the Federal Basic Pilot Program under certain circumstances. See §§ 4(B)(6)(b) and 4(D). Even where the Revised Immigration Ordinance does not mandate such enrollment de jure, the Ordinance requires such enrollment on a de facto basis due to the risk of being subjected to exorbitant penalties if the business does not enroll in the Basic Pilot Program. This mandated participation by Hazleton is

irreconcilable with the Congressional directive that the Basic Pilot Program be implemented by the Secretary of Homeland Security as a voluntary, experimental program.

121. Additionally, the Revised Immigration Ordinance requires businesses, individuals, non-profits, and other entities to ensure that any person they "recruit, hire for employment, or continue to employ, or to permit, dispatch, or instruct … to perform work in whole or part within the City" is an authorized worker. § 4.A. In contrast, Federal law does not require that employers verify the immigration status of certain categories of workers, such as independent contractors and casual domestic workers, and does not apply to entities, such as unions, that refer individuals for employment but without a fee or profit motive.

122. The Revised Immigration Ordinance further contradicts Federal immigration law because it subjects an employer to sanctions and requires an employer to undertake "corrections" – termination or reverification – when the employer is in full compliance with the Immigration Reform and Control Act, 8 U.S.C. §1324a *et seq*.("IRCA") While IRCA provides a "safe harbor" for any employer who requires employees to undergo the IRCA verification process, *see* 8 U.S.C. 1324a(a)(3) and (b), such employers may nonetheless be subject to sanctions. Further, the Ordinance requires employers to terminate or reverify workers even where those workers have completed the IRCA verification process,

and thus places employers at risk of violating provisions of IRCA that prohibit improper reverification of workers. See 8 U.S.C. 1324b(a)(6).

123. The Revised Immigration Ordinance renders it unlawful for any person or business entity that owns a dwelling unit ("Landlords") to harbor an "illegal alien" if the Landlord knows or recklessly disregards the fact that the alien has come to, entered or remains in the United State in violation of the law, unless such harboring is expressly permitted by Federal law. This "savings clause" is illusory because Federal immigration law sets forth standards, processes and requirements for the removal of individuals who lack the legal authority to remain in the United States and does not set forth express provisions delineating circumstances under which "harboring" is not unlawful.

124. The "harboring" section of the Immigration Ordinance directs the Code Office to verify the immigration status of an alleged "illegal alien" that is seeking to use, occupy, lease or rent a dwelling unit in Hazleton with the Federal government pursuant to 8 U.S.C. §1373(c). See §5.B.(3). Additionally, Ordinance 2006-40 contemplates that a Landlord will request and Hazleton will obtain a secondary or additional verification by the federal government under some circumstances. See §7.D.(2).

125. The Federal government currently does not have any system in place to permit Hazleton – or any other municipality – to obtain immigration status

information about individuals who use, occupy, lease or rent a dwelling unit. Hazleton has not executed a Memorandum of Understanding with the Federal government, or otherwise been granted authority to use or access, the Systematic Alien Verification for Entitlements (SAVE) program or any other Federal government immigration verification system for purposes of verifying the immigration status of renters and occupants of dwelling units. Upon information and belief, the Federal government has not granted any municipality in the country authority to use or access the SAVE program for the purposes that are contemplated by the Revised Immigration Ordinance.

126. Hazleton's attempt to rely upon Federal government employment eligibility and immigration status verification programs would impose a monetary, administrative and other burdens on the Federal government that do not currently exist and, upon information and belief, such burden would be significant, particularly if other municipalities similarly seek to rely upon such Federal government verification systems.

127. Ordinance 2006-40 purports to acknowledge Hazleton's deference to the Federal government regarding determinations as to whether a worker is an "illegal alien." However, Ordinance 2006-40 establishes that the Federal government's determination creates only a rebuttable presumption. Additionally, the "deference" provision contained in Ordinance 2006-40 is incomplete as it does

not extend such "deference" to persons other than workers and tenants ignoring, for example, occupants of dwelling units.

128. For many persons, no document or combination of documents can conclusively establish whether or not they are "illegal aliens" as defined by the Revised Immigration Ordinance.

129. If the Revised Immigration Ordinance or the Tenant Registration Ordinance is implemented, some Individual Plaintiffs and members of Plaintiff Organizations will be subject to being barred from employment or housing in Hazleton.

130. The Revised Immigration Ordinance and the Tenant Registration Ordinance violate the Supremacy Clause of the Constitution.

131. As a result of Hazleton's violation of the Supremacy Clause by enacting the Ordinances, Plaintiffs are entitled to declaratory and injunctive relief.

SECOND CAUSE OF ACTION
VIOLATION OF DUE PROCESS

132. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 129 above as though set forth at length herein.

133. The Fourteenth Amendment to the United States Constitution guarantees to Plaintiffs certain fundamental rights, including but not limited to, the right to a hearing prior to the deprivation of substantive rights.

134. The Revised Immigration Ordinance fails to afford suspected "illegal aliens," including Individual Plaintiffs and members of Plaintiff Organization who are deemed to be "illegal aliens" under the Ordinance, any due process rights before the Landlord must take action to cease "harboring" the "illegal alien" (that is, refuse the individual access to the dwelling unit), in order for the Landlord to avoid the draconian penalties imposed by the Revised Immigration Ordinance.

135. The Revised Immigration Ordinance contemplates that any purported "illegal alien" will be displaced from the dwelling unit before that individual is given notice of any challenge to his/her immigration status; the opportunity to present documentation in support of the individual's status as lawfully present in the United States including under no currently effective order to be removed from the United States; or the opportunity to dispute or correct any erroneous or mistaken "verification" by the federal government that the individual is not lawfully present in the United States.

136. The Revised Immigration Ordinance fails to afford Landlords, including Landlord Plaintiffs and members of Plaintiff Organizations that are Landlords, adequate due process rights. The Revised Immigration Ordinance harms Landlord Plaintiffs and members of Plaintiff Organizations that are Landlords by imposing significant sanctions without due process, including:

(a). the immediate denial or suspension of a rental license for the dwelling unit;

(b). a prohibition on the collection or rent or other compensation from any tenant or occupant in the dwelling unit, for the period of the license suspension;

(c). imposition of a $250.00 fine for day any "harboring" has occurred, for each adult "illegal alien" harbored in the dwelling unit; and

(d). imposition of a $250.00 fine for any second or subsequent violation of the Ordinance by an Owner.

137. The Revised Immigration Ordinance does not afford Landlords any process by which the Landlord can challenge, in advance of the imposition of the penalties for "harboring": (a) its lack of knowledge about the unlawful status of any individual leasing, renting or occupying the Landlord's dwelling unit; (b) that the Landlord did not recklessly disregarded facts relating to such individual's unlawful status; or (c) that the individual's presence is not violative of any law or removal order.

138. The Revised Immigration Ordinance does not afford Landlords adequate process in advance of the imposition of the penalties under the Revised Immigration Ordinance.

139. Landlord Plaintiffs and, upon information and belief, members of the Plaintiff Organizations who are landlords are required to obtain and maintain a rental license to operate their businesses in Hazleton. Unless the Revised Immigration Ordinance is permanently enjoined and declared invalid, Plaintiffs are subject to significant monetary fines and loss of their rental licenses, and the denial of the receipt of rents, payments, fees or other compensation due Plaintiffs, all without due process of law.

140. Unless the Revised Immigration Ordinance is permanently enjoined and declared invalid, Individual Plaintiffs and members of Plaintiff Organizations who are permitted by the Federal government to live and/or work in the United States will be denied due process of law.

141. The Revised Immigration Ordinance violates the due process rights of employers because sanctions can be levied even though there has been no finding that an "illegal alien" has been hired. The business license of a business entity may be suspended for a failure to provide requested identity information of a worker following receipt of a request from the Code Office. Such a suspension is mandatory under §4.B.(3) of the Revised Immigration Ordinance and is not dependent upon any finding that an "unlawful worker" has been hired. Ordinance 2006-40 does not forestall a suspension under these circumstances. Ordinance 2006-40 provides that a business entity can toll the suspension period imposed by

§4.B.(4) if the business entity acquires additional information from the worker and requests a secondary or additional verification of the worker's status under the Basic Pilot Program. However, Ordinance 2006-40 provides no opportunity for a business entity to challenge or toll a suspension under §4.B.(3) before such suspension takes effect.

142. Sanctions against the business entity can be avoided only if (1) the business entity's attempt to terminate the worker's employment is challenged in a Pennsylvania court (but – inexplicably - not if such litigation is brought in the court of any other state) and (2) if the business entity seeks further verification of the worker's authorization under the Basic Pilot Program (which reverification may subject the business entity to sanctions under applicable Federal statutes).

143. Any purported process provided by Ordinance 2006-40 relating to the determination of an individual's immigration status is illusory because state and local courts lack the authority to determine such status.

144. The Due Process Rights of Plaintiffs Lozano, Hernandez and Lechuga are violated by the Revised Immigration Ordinance.

145. Because the Revised Immigration Ordinance violates Plaintiffs' Due Process Rights protected by the Fourteenth Amendment, Plaintiffs are entitled to declaratory and injunctive relief.

THIRD CAUSE OF ACTION
VIOLATION OF EQUAL PROTECTION

146. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 143 above as though set forth at length herein.

147. Under the Revised Immigration Ordinance, enforcement may be initiated by a complaint made to the Code Office submitted by any Hazleton official, business entity or resident. To constitute a "valid complaint," the complaint must be in a signed writing, and must include an allegation which describes the alleged violator(s) as well as the actions constituting the violation, and the date and location where such actions occurred.

148. The Revised Immigration Ordinance contains one provision defining an invalid complaint.

> A complaint which alleges a violation solely or primarily on the basis of national origin, ethnicity, or race shall be deemed invalid and shall not be enforced. (See Section 4 Business Permits, Contracts, or Grants (B)(2) and Section 5 Harboring (B)(2) of the Ordinance).

149. That Revised Immigration Ordinance makes two things clear: 1) a complaint based solely or primarily upon national origin, ethnicity, or race language is not to be considered a valid complaint and 2) a complaint based only in part upon national origin, ethnicity or race is to be considered valid. Thus, national origin, ethnicity and race, since they may constitute evidence of a valid complaint, can serve to trigger an investigation and the resultant punitive procedures set forth in Sections 4 and 5.

150. The Revised Immigration Ordinance uses race and national origin as an overt classification and violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The Equal Protection Clause prohibits the discriminatory use of national origin or race as an express classification in Hazleton's enforcement of the housing provisions in the Revised Immigration Ordinance.

151. The Revised Immigration Ordinance relies upon a passive enforcement system that has a discriminatory effect and that is motivated by a discriminatory purpose and is unenforceable under the Equal Protection clause.

152. The Revised Immigration Ordinance allows race and national origin to constitute evidence of a violation and thus subjects alleged offending workers or tenants who are not white or native born to a greater likelihood of further investigation and the resultant harsh punitive consequences set forth by the Ordinance.

153. The fact that race and national origin cannot serve as the sole or primary basis of a complaint under the Revised Immigration Ordinance does not eliminate the constitutional infirmity.

154. The Revised Immigration Ordinance violates the equal protection rights of the Individual Plaintiffs and members of Organizational Plaintiffs.

155. Unless the Revised Immigration Ordinance is permanently enjoined and declared invalid, the equal protection rights of Plaintiffs will be violated.

156. Therefore, Plaintiffs are entitled to declaratory and injunctive relief.

FOURTH CAUSE OF ACTION
VIOLATION OF THE FAIR HOUSING ACT

157. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 154 above as though set forth at length herein.

158. The Fair Housing Act (FHA), 42 U.S.C. §§ 3601 *et seq*., prohibits discrimination in residential real estate-related transactions. The FHA declares, inter alia, that it is illegal to make housing unavailable "because of race . . . or national origin." 42 U.S.C. §3604(a). Further, the FHA prohibits, inter alia, discrimination based upon national origin in the "terms, conditions, or privileges or sale or rental of a dwelling, or in the provision of services or facilities in connection therewith." 42 U.S.C. §3604(b).

159. The FHA prohibits the discriminatory use of national origin or race as an express classification in the enforcement mechanism of the housing provisions contained in the Revised Immigration Ordinance.

160. The Revised Immigration Ordinance and the Tenant Registration Ordinance constitutes discrimination based upon race and national origin and violates the FHA. These Ordinances discriminate against alleged tenant violators

based upon their race and national origin and thus has the effect of making dwellings unavailable on that basis in violation of the FHA.

161. The Revised Immigration Ordinance discriminates against Plaintiffs John Does 3 and 7 and Jane Doe 5, and members of the Plaintiff Organizations who are tenants, as a result of their national origin in the terms, conditions or privilege of renting a dwelling unit and/or in services or facilities in connection therewith.

162. The Revised Immigration Ordinance violates the FHA.

163. The Revised Immigration Ordinance and Tenant Registration Ordinance discriminates impermissibly based upon race and national origin.

164. As a result, Plaintiffs are entitled to declaratory and injunctive relief.

FIFTH CAUSE OF ACTION
VIOLATION OF 42 U.S.C. § 1981

165. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 175 above as though set forth at length herein.

166. The fundamental right to contract and to full and equal benefit of all laws is codified under 42 U.S.C. § 1981, as amended by Section 101 of the Civil Rights Act of 1991.

167. Pursuant to 42 U.S.C. § 1981, "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal

benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other."

168. Section 1981 prohibits discrimination under the color of law based on alienage and race.

169. Congress deliberately used "all persons" instead of "citizens" in order to reflect the language of the recently ratified Fourteenth Amendment that extended the guarantee of equal protection under the laws to "any person within the jurisdiction of the United States."

170. Plaintiffs are entitled to the protections and benefits afforded by Section 1981, including Individual Plaintiffs and members of Plaintiff Organizations who are categorized as "illegal aliens" under the Revised Immigration Ordinance.

171. By enacting the Revised Immigration Ordinance, Hazleton has violated Plaintiffs' fundamental rights under 42 U.S.C. § 1981.

172. Therefore, Plaintiffs are entitled to declaratory and injunctive relief.

SIXTH CAUSE OF ACTION
VIOLATION OF THE HOME RULE CHARTER LAW

173. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 170 above as though set forth at length herein.

174. Hazleton is a City of the Third Class and has adopted a home rule charter. As a home-rule-charter municipality, Hazleton derives its legislative powers from the Constitution of the Commonwealth of Pennsylvania and 53 Pa. C.S. §§ 2961, *et seq*. (the "Home Rule Charter Law"). Section 2961 of the Home Rule Charter Law provides:

> A municipality which has adopted a home rule charter may exercise powers and perform any function not denied by the Constitution of Pennsylvania, by statute or by its home rule charter. All grants of municipal power to municipalities governed by a home rule charter under this subchapter, whether in the form of specific enumeration or general terms, shall be liberally construed in favor of the municipality.

53 Pa. C.S. § 2961; see also Pa. Const. art. 9, § 2.

175. The municipal powers of Hazleton are not unlimited and Hazleton is restricted to those powers bestowed by the General Assembly. Hazleton is not a sovereign government and it has no original or fundamental power of legislation. Rather, Hazleton has the power to enact ordinances only within the parameters which are established by the General Assembly.

176. The Home Rule Charter Law proscribes municipalities from exercising "powers contrary to, or in limitation or enlargement of, powers granted by statutes which are applicable in every part of this Commonwealth." 53 Pa. C.S. § 2962(c)(2).

177. The General Assembly has circumscribed the ability of a home-rule-charter municipality, such as Hazleton, to regulate business and employment. The Home Rule Charter Law states in pertinent part:

> [a] municipality which adopts a home rule charter **shall not determine the duties, responsibilities or requirements placed upon businesses, occupations and employers**. . . except as expressly provided by statutes which are applicable in every part of this Commonwealth or which are applicable to all municipalities or to a class or classes of municipalities.

53 Pa.C.S. § 2962(f) (emphasis added).

178. Alternatively, in the event that Hazleton claims that it is not a Home Rule Charter municipality, Hazleton's ability to enact ordinances is even more circumscribed. A non-Home Rule Charter municipality only has those powers expressly granted to it by the Commonwealth.

179. Through the enactment of §4.E. of the Revised Immigration Ordinance, Hazleton attempts to impose duties and responsibilities on businesses, occupations and employers in direct violation of the Home Rule Charter Law. Moreover, Pennsylvania law does not expressly empower non-Home Rule Charter municipalities to impose duties and responsibilities on businesses such as those provided in §4.E.

180. The Revised Immigration Ordinance requires the Code Office to suspend the business permit of any business if the Code Office determines the

business recruited, hired for employment, continued to employ, dispatched or instructed an "unlawful worker" to perform work in whole or in part within Hazleton. See § 4.A. and § 4.B.(4).

181. Clearly, shuttering an entire firm for violating the Revised Immigration Ordinance imposes duties, responsibilities or requirements on businesses and employers which duties, responsibilities or requirements do not otherwise exist under Federal or state law. Therefore, the Revised Immigration Ordinance exceeds Hazleton's powers under the Home Rule Charter Law (or other law governing non-Home Rule Charter municipalities) and cannot stand.

182. Further, and regardless of the legislative wisdom (or lack thereof) in closing an entire firm for hiring a single "unlawful worker," it is undeniable that such an enforcement action would cause other workers to lose pay and potentially their jobs. The magnitude of this grossly punitive penalty is wholly unrelated to the public policy underlying the Revised Immigration Ordinance and thus Hazleton overstepped the legitimate exercise of its municipal powers in enacting the Revised Immigration Ordinance.

183. The Revised Immigration Ordinance impermissibly creates a heretofore nonexistent cause of action in favor of an "unfairly discharged employee" against the business entity. §4.E. empowers an "unfairly discharged employee" to sue the business entity in the Hazleton municipal court for the

"unfair business practice." § 4.E.(2). The Revised Immigration Ordinance further authorizes the "unfairly discharged employee" to recover actual damages, including three times the employee's lost wages for a 120-day period and to recover attorneys' fees and costs.

184. By creating a private cause of action in favor of "unfairly discharged employees," §4.E. enlarges the rights of employees and the responsibilities of employers. Pennsylvania common law has long recognized the "at-will" status of employees. Section 4.E. attempts to alter that state-wide rule with respect to businesses operating — in whole or in part — in Hazleton by allowing employees of to sue for discharge on facts that are otherwise not actionable. Similarly, §4.E. allows for the recovery of treble damages for a discharged employee, creating a substantive right that does not exist under Pennsylvania law. Finally, §4.E. alters the "American rule" by allowing the discharged employee to recover attorneys' fees, regardless of whether he/she prevails on the underlying claims.

185. Because §4.E. improperly attempts to impose otherwise non-existent duties upon employers by creating a cause of action, allowing recovery of treble damages and allowing the recovery of attorneys' fees, the Revised Immigration Ordinance clearly constitutes an ultra vires act in the imposition of duties on business or employers in violation of the authority granted to Hazleton by the

Home Rule Charter Law (or other law governing non-Home Rule Charter municipalities) and must be declared void.

186. Under the Revised Immigration Ordinance, Landlord Plaintiffs, Plaintiffs Lechuga and members of Plaintiff Organizations would be subject to the duties, responsibilities or requirements imposed on businesses, occupations and employers under the Ordinance.

187. Because the Revised Immigration Ordinance violates the Home Rule Charter Law, Plaintiffs are entitled to declaratory and injunctive relief.

SEVENTH CAUSE OF ACTION
VIOLATION OF THE LANDLORD AND TENANT ACT

188. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 184 above as though set forth at length herein.

189. The Commonwealth has explicitly claimed state-wide authority over landlord and tenant issues by virtue of its enactment of the Landlord and Tenant Act of 1951, 68 P.S. §§ 250.101, *et seq*. ("L/T Act"). The L/T Act is the sole source of rights, remedies and procedures governing the landlord/tenant relationship and states in pertinent part:

> [A]ll other acts a parts of acts, general, local and special, inconsistent with or supplied by this act, are hereby repealed. **It is intended that this act shall furnish a complete and exclusive system in itself**.

68 P.S. § 250.602 (emphasis added).

190. Hazleton may not adopt local ordinances that are incompatible and/or inconsistent with the requirements of the L/T Act. Hazleton has no lawful authority to alter or supplement the L/T Act.

191. The Tenant Registration Ordinance prohibits an Owner from permitting occupancy of a Rental Unit by any Occupant, unless each Occupant has obtained an occupancy permit from Hazleton.

192. If an Occupant who does not have an occupancy permit to occupy the Rental Unit, the Owner is liable for sanctions under the Ordinance, unless the Owner takes reasonable steps to remove the unauthorized person from the Rental Unit within ten (10) days of learning of the unregistered occupancy. If the Owner fails to remove any person lacking an occupancy permit, the Owner is liable for significant monetary sanctions under the Tenant Registration Ordinance, including a $1,000 fine for each unregistered occupant and $100 per day fine for each unregistered occupant.

193. To avoid the imposition of sanctions under the Tenant Registration Ordinance, an Owner must evict any unregistered occupant within 10 days after of learning of the unregistered occupancy. The eviction of an unregistered occupant within this compressed timeframe would cause the Owner to violate the provisions of the L/T Act that mandate minimum timeframes for eviction proceedings,

including the notice required under Section 250.501; the time limits for notice under Section 250.501; the time limits for removal under Sections 250.502 and 250.503; and tenant's rights under Section 250.503-A. If the Owner complied with Tenant Registration Ordinance's 10-day time limitation, the Owner would be subject to penalties for violation of the L/T Act. Because of this actual, direct, material and irreconcilable conflict between the Tenant Registration Ordinance and the state-wide statutes governing landlord/tenant matters, the Tenant Registration Ordinance clearly exceeds Hazleton's powers under the Home Rule Charter Law and is preempted by the L/T Act.

194. The Tenant Registration Ordinance also conflicts with the L/T Act in another way. Under Section 10.b. of the Tenant Registration Ordinance, Occupants who allow additional occupancy in a Rental Unit without first obtaining the written permission of the landlord, and without requiring that any additional occupant obtain his or her own permit, are in violation of that Ordinance. However, under Section 250.504-A of the L/T Act, tenants have a right to invite social guests, family members or visitors into the Rental Unit for a reasonable period of time, as long as the tenant's obligations as a tenant under the L/T Act are observed.

195. Hazleton's attempt to eliminate a tenant's rights to have visitors for a reasonable period of time by imposing an occupancy permit requirement directly and materially conflicts with the L/T Act. Accordingly, the Tenant Registration Ordinance is preempted by the L/T Act and exceeds Hazleton's powers under the Home Rule Charter Law.

196. Plaintiffs John Does 1, 3 and 7 and Plaintiff Jane Doe 5 are tenants in Hazleton and are entitled to the protections afforded by the L/T Act. Landlord Plaintiffs are subject to sanctions under the Tenant Registration Ordinance if they obey the L/T Act, and sanction under the L/T Act if they comply with the Tenant Registration Ordinance.

197. Hazleton lacks the lawful authority to mandate that a person's immigration status may constitutes a breach and forfeiture of a lease under 68 P.S. § 250.101.

198. Because the Tenant Registration Ordinance violates the L/T Act, Plaintiffs are entitled to declaratory and injunctive relief.

EIGHTH CAUSE OF ACTION
VIOLATION OF PLAINTIFFS' PRIVACY RIGHTS

199. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 193 above as though set forth at length herein.

200. The U.S. Constitution protects certain zones of privacy and Plaintiffs are legally entitled to the protection of these privacy rights.

201. Article I, Section 8 of the Pennsylvania Constitution provides:

> The people shall be secure in their persons, houses, papers and possessions from unreasonable searches and seizures, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed to by the affiant.

202. The Pennsylvania Constitutional guarantee protects an individual's privacy.

203. The Revised Immigration Ordinance and the Tenant Registration Ordinance violate Plaintiff's right to privacy as protected by the U.S. Constitution and the Constitution of the Commonwealth of Pennsylvania.

204. Under §7.D. of the Revised Immigration Ordinance, to avoid sanctions, a Landlord is compelled to issue a notice to quit the premises to the tenant or demand identity information from any occupant of the dwelling unit who is alleged to be an "illegal alien." Upon information and belief, Landlords will require the disclosure of personal information such as an occupant's full name, work telephone number and cellular telephone number. Upon information and belief, Landlords will demand occupants to disclose confidential and personal documents such as birth certificates; passports; documents issued to the individual by the federal government, such as "green cards"; resident alien cards; and

naturalization documents. Upon information and belief, these documents contain highly personal and confidential information such as an individual's date and place of birth, alien number, country of origin, date of entry into the U.S. and, in some cases, the persons' victimization background, asylum or refugee status.

205. The Individual Plaintiffs and occupants within their residences and members of the Plaintiff Organizations have a reasonable expectation of confidentiality and privacy in and non-disclosure of their private and confidential information.

206. Plaintiffs Jane Doe 5 and Plaintiffs John Does 1, 3 and 7 are adult tenants and residents in the City of Hazleton. Plaintiffs Jane Doe 5 and Plaintiffs John Does 1, 3 and 7 have a privacy interest in whom they choose to associate with and the familial relationships they may or may not have.

207. The Revised Immigration Ordinance contains no safeguards to ensure the information gathered by Hazleton remains private and confidential. The Revised Immigration Ordinance does not mandate penalties in the event of inappropriate use or disclosure of private and confidential information.

208. Because Plaintiffs' Right to Privacy as guaranteed by the U.S. Constitution and the Constitution of the Commonwealth of Pennsylvania will be violated if Landlords are required to demand private and confidential information and documents from occupants of the dwelling unit in order for the Landlord to

avoid sanctions under the Revised Immigration Ordinance, the Revised Immigration Ordinance must be declared to be invalid. To secure an occupancy permit under the Registration Ordinance, Hazleton compels prospective tenants to disclose personal information such as an occupant's full name, address, home telephone number, work telephone number and cellular telephone number. Additionally, such prospective tenants are obligated to disclose confidential and personal documents such as birth certificates, passports; documents issued to the individual by the federal government, such as "green cards" resident alien cards and naturalization documents. Upon information and belief, these documents contain highly personal and confidential information such as and individual's date and place of birth, alien number, country of origin and date of entry into the U.S.

209. Under the Tenant Registration Ordinance, to obtain an occupancy permit, prospective tenants must disclose the information stated above in paragraph 213 for each Occupant with whom the contracting tenant chooses to reside.

210. The Individual Plaintiffs, the members of the Plaintiff Organizations and Plaintiff Landlords have a reasonable expectation of confidentiality and privacy in and non-disclosure of their private and confidential information.

211. The right to move from one residence to another is a constitutionally protected liberty. Compliance with the Registration Ordinance will force the

Individual Plaintiffs and the members of the Plaintiff Organizations to surrender their Federal and state privacy rights in order to exercise a constitutionally protected liberty.

212. It is completely incongruous that the Revised Immigration Ordinance continues to impose any identity requirement on a tenant or an occupant of a dwelling unit after Hazleton completely abandoned such a concept in the Property Registration Ordinance, after Plaintiffs filed their First Amended Complaint challenging the previously enacted Tenant Registration Ordinance, which ordinance imposes identity requirements on tenants and occupants.

213. As a result of the violations of Plaintiff's Right to Privacy, Plaintiffs are entitled to declaratory and injunctive relief.

NINTH CAUSE OF ACTION
VIOLATION OF LEGITIMATE POLICE POWERS

214. Plaintiffs incorporate by reference the allegations of paragraphs 1 to 205 above as though set forth at length herein.

215. In the exercise of the police power for the purpose of preserving the public health, safety and morals, a legislative body may limit the enjoyment of personal liberty and property, subject to constitutional limitations and judicial review.

216. The Constitution of the Commonwealth of Pennsylvania places well established limitations on the exercise of the police power; namely, it must not be

unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained.

217. Hazleton, in exercise of its police power, may not exceed constitutional limitations in defining what constitutes a nuisance.

218. To validly exercise police power, Hazleton is required to affirmatively establish the actual existence of a nuisance. Hazleton is not relieved of its obligation to establish the actual existence of a nuisance by simply declaring its existence.

219. The Revised Immigration Ordinance anticipates that Hazleton will obtain verification of a tenant's and residential dwelling occupant's immigration status from the Federal government. However, the Federal government currently has no verification program or database that can be accessed upon request by Hazleton – or any other municipality – to verify the immigration status of tenants and occupants under the circumstances anticipated by the Revised Immigration Ordinance. Thus, the Revised Immigration Ordinance is predicated on a Federal government verification system that does not exist, resulting in an absurdity that cannot be sanctioned by the Court.

220. Prior to enacting the Immigration Ordinance, Hazleton conducted no analysis of the criminal, fiscal, cultural or other challenges facing Hazleton in

order to determine if (a) any actual problem existed and (b) what measures were necessary to abate any such problems. Rather, the Revised Immigration Ordinance including its boilerplate "Findings and Declaration of Purpose," are a virtual carbon copy of a similar ordinance originally introduced (but not adopted) in San Bernardino, California.

221. Indeed, Mayor Barletta has publicly admitted on several occasions that he does not have any statistics or solid evidence to back up his claim that "illegal aliens" have contributed significantly to any real or perceived problems in Hazleton, including an increase in the crime rate. Furthermore, the Mayor has acknowledged that he does not know how many undocumented individuals live, work, or go to school in Hazleton.

222. One of Hazleton's stated purposes in enacting the Ordinance was to abate the increased crime rate brought about by "illegal immigration." Nevertheless, statistics show a reduction in the number of total arrests in Hazleton over the last five years, due in large part to a reduction in the number of more serious crimes in Hazleton since 2000.

223. Prior to the adoption of the Immigration Ordinance, Hazleton City Council was not presented with any increase in arrest or criminal statistics or data by reason of "illegal aliens" residing in Hazleton.

224. The Revised Immigration Ordinance declares that illegal immigration subjects Hazelton's hospitals to fiscal hardship.

225. However, Hazleton does not either own or operate a hospital or other urgent care facility.

226. Prior to the adoption of the Immigration Ordinance, Hazleton City Council was not presented with any statistics or data showing any increase in medical care costs impacting Hazleton's budget by reason of "illegal aliens" residing in Hazleton.

227. Prior to the adoption of the Immigration Ordinance, Hazleton City Council was not presented with any statistics or data showing any increase in costs caused by "illegal aliens" on school budgets that are funded by Hazleton.

228. The citizens of Hazleton, including landlords, tenants and employers, were not given proper advance notice of Hazleton's intent to adopt the Revised Immigration Ordinance. Hazleton did not make any press release, post any Internet notice or otherwise communicate a description of the amendments proposed in Ordinance 2006-40 or the fact that the Ordinance was adopted.

229. In its rush to adopt the provisions contained in the Revised Immigration Ordinance, Hazleton failed to follow its own historic processes when considering, evaluating and adopting that Ordinance.

230. The provisions of the Immigration Ordinance and Ordinance 2006-40 are illogical and internally inconsistent, resulting in an unreasonable Ordinance that is wholly outside of the proper exercise of Hazleton's police powers.

231. The measures imposed by the Revised Immigration Ordinance are unreasonable, unduly oppressive and patently beyond the necessities of the case.

232. The Code Office consists of two full time enforcement officers and one office assistant. The code enforcement officers are charged with, among other things, inspections for zoning code compliance, building permits and parking enforcement.

233. The employees of the Code Office have had no training whatsoever in the operation of the Basic Pilot Program, SAVE or any other Federal government immigration status verification system.

234. The employees of the Code Office have had no practical experience reviewing immigration status documents.

235. Upon information and belief, the employees of the Code office were not afforded any input into the drafting, implementation or operation of the Prior Ordinance, the Immigration Ordinance, the Tenant Registration Ordinance, the Property Registration Ordinance or Ordinance 2006-40. As of the time of the taking of their depositions in this action, neither code enforcement officer had been provided copies of any of the ordinances, neither had read the ordinances and

neither had received any instruction, training or direction on how to enforce the ordinances.

236. Because the Revised Immigration Ordinance and the Tenant Registration Ordinance has done nothing to remedy the financial expenditures and resource burdens allegedly borne by Hazleton, but rather has added to such difficulties, the Revised Immigration Ordinance is an abuse of Hazleton's police powers.

237. As a result, Plaintiffs are entitled to declaratory and injunctive relief.

For all the foregoing reasons, Plaintiffs are entitled to relief under each and every one of the causes of action asserted herein.

PRAYER FOR RELIEF

WHEREFORE, in light of the foregoing, Plaintiffs respectfully request the following:

(a) a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 and 42 U.S.C. §§ 1981 and 1983 declaring the Revised Immigration Ordinance and Tenant Registration Ordinance void because they violate the Supremacy Clause, the Due Process and Equal Protection Clauses of Fourteenth Amendment of the Constitution of the United States, violates the fundamental rights conferred by 42 U.S.C. § 1981 and the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq*.; violates privacy rights conferred by the U.S. and Pennsylvania Constitutions; and violates Pennsylvania's

Home Rule Charter Law, 53 Pa.C.S §§ 2961, *et seq*. and Landlord and Tenant Act, 68 P.S. §§ 250.101 *et seq*.

(b) an injunction pursuant to Fed. R. Civ. P. 65 prohibiting Hazleton and its agents from implementing or enforcing the Revised Immigration Ordinance and the Tenant Registration Ordinance;

(c) an order awarding Plaintiffs the costs incurred in this litigation, including attorneys' fees pursuant to 42 U.S.C. § 1988; and

(d) such other relief as the Court deems just and proper.

Respectfully submitted,

By: /s/ Thomas G. Wilkinson, Jr.

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CERTIFICATE OF SERVICE

I, Thomas G. Wilkinson, Jr., counsel for Plaintiffs, hereby certify that I did cause a true and correct copy of Plaintiffs' Amended Complaint to be served U.S. Mail, postage prepaid, to counsel addressed as follows:

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