

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**National Coalition of Latino Clergy and  
Christian Leaders, Inc.,  
CONLAMIC - OKLAHOMA,  
Church Eficaz,  
Church Piedra Angular,  
T-Mac Construction, Inc.,  
Chilino's Restaurant,  
John Doe One,  
John Doe Two,  
John Doe Three,  
John Doe Four,  
John Doe Five,  
John Doe Six,  
John Doe Seven,  
Jane Doe One,  
Jane Doe Two,  
Jane Doe Three,  
Jane Doe Four,  
Jane Doe Five, et al.**

**Case No.: CIV-07-613-JHP-FHM**

**Plaintiffs,**

**v.**

**Brad Henry, Governor of the State of  
Oklahoma and**

**Drew Edmondson, Attorney General of the  
State of Oklahoma**

**AMENDED COMPLAINT**

For their Complaint against the Honorable Brad Henry, Governor of the State of Oklahoma, and the Honorable Drew Edmondson, Attorney General of the State of Oklahoma, (the "State"), Plaintiffs National Coalition of Latino Clergy, Inc. (CONLAMIC), CONLAMIC- Oklahoma, Church Eficaz, Church Piedra Angular, T-Mac Construction, Inc., Chilino's Restaurant, John Doe One, John Doe Two, John Doe Three, John Doe Four, John Doe Five, John Doe Six, John Doe Seven, Jane Doe One, Jane Doe Two, Jane Doe Three, Jane Doe Four, Jane Doe Five, et al., allege as follows:

## SUMMARY

1. Plaintiffs bring this case to uphold and to prevent violations of the Constitution of the United States, the laws of the United States, and the Constitution of the State of Oklahoma.
2. On or about May 8, 2007 the Honorable Brad Henry, the Governor of Oklahoma, signed into law HB 1804, a bill passed by the Oklahoma Legislature on or about May 1, 2007 ( hereinafter referred to as "HB 1804"). HB 1804 is attached as Exhibit "A".
3. HB 1804 violates the United States and Oklahoma constitutions and federal law. Specifically, HB 1804 violates the Supremacy Clause of the United States Constitution; Free Exercise Clause of the First Amendment to the United States Constitution; Plaintiffs' due process and equal protection rights under the United States and Oklahoma constitutions; rights against self-incrimination under the United States and Oklahoma constitutions; Contracts Clause of the United States and Oklahoma constitutions; separation of powers doctrine of the Oklahoma Constitution; and right to bail under the Oklahoma Constitution; and 42 U.S.C. § 1981; the Fair Housing Act; legitimate police powers under the Oklahoma Constitution; Article 2, Section 2 of the Oklahoma Constitution; and Article 5, Section 48 of the Oklahoma Constitution.

4. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 violate Plaintiffs' due process and equal protection rights under the United States and Oklahoma constitutions; 42 U.S.C. § 1981; the contracts clauses of the United States and Oklahoma constitutions; legitimate police powers under the Oklahoma Constitution; Article 2, Section 2 of the Oklahoma Constitution; and Article 5, Section 48 of the Oklahoma Constitution.
5. Plaintiffs seek and are entitled to a declaratory judgment and a preliminary and permanent injunction to declare HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 unconstitutional and illegal and to enjoin the Governor and the Attorney General from enforcing HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

#### **PARTIES, JURISDICTION AND VENUE**

6. Plaintiff National Coalition of Latino Clergy and Christian Leaders, (CONLAMIC), is a non profit corporation incorporated under the laws of the State of Virginia, with its principal place of business located in Washington, D.C.
7. CONLAMIC is a nationwide organization of pastors, including pastors in Oklahoma. CONLAMIC has over 16,000 affiliated churches throughout the

country.

8. CONLAMIC's mission is to give voice and representation to the Latino Christian community nationwide, and to advocate for civil rights and social justice for Latino Christians.
9. In a recent survey by CONLAMIC, it was found that 17% of the pastors who are members of CONLAMIC are undocumented aliens, and 38% of those pastors' church members are undocumented
10. There are over 30 pastors in Tulsa County that are members of CONLAMIC.
11. The pastors currently transport church members, including undocumented aliens, from homes to churches. The pastors also transport church members to run errands. These pastors intend to continue transporting their members after November 1, 2007. The pastors fear that they will be subject to prosecution under Section 3 of HB 1804 for doing so. Transportation of church members does not fall under the exception contained in Subsection C of Section 3.
12. Plaintiff CONLAMIC - Oklahoma, is a branch of CONLAMIC.
13. The CONLAMIC-Oklahoma pastors currently transport church members, including undocumented aliens, from homes to churches. The pastors also transport church members to run errands. These pastors intend to continue

transporting their members after November 1, 2007. The pastors fear that they will be subject to prosecution under Section 3 of HB 1804 for doing so.

14. Churches in Oklahoma belonging to CONLAMIC-Oklahoma have many undocumented alien members. These members of CONLAMIC-Oklahoma intend to continue transporting their members after November 1, 2007. The member churches fear that they will be subject to prosecution under Section 3 of HB 1804 for doing so. Transportation of church members does not fall under the exception contained in Subsection C of Section 3.
15. Plaintiff Church Eficaz is a non-profit, 501(c)(3) tax exempt church, authorized to act as a church under federal law and the laws of Oklahoma.
16. Plaintiff Church Eficaz' primary function is to promote the gospel of Jesus Christ. Before the passage of HB 1804 Church Eficaz had approximately 200 members. Its membership has now dwindled to approximately 100 members, as a result of the fear caused by HB 1804's passage they assume that many of the church members who left are undocumented.
17. Plaintiff Church Eficaz has many undocumented alien members. HB 1804 has created great hostility towards the Latino community in Oklahoma and therefore adversely affects the work Church Eficaz performs in Oklahoma and for Oklahoma residents.
18. Church Eficaz' 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 Tulsa, some of whom have school-aged children. The membership includes persons who have Spanish as their native tongue with a limited proficiency in English.

19. Church Eficaz intends to continue to provide services to all its church members, including but not limited to transporting them to different locations. Church Eficaz fears they will be subject to numerous felonies if they continue to transport individuals, who happen to be undocumented, after November 1, 2007. Church Eficaz does not plan to alter the services they provide after November 1, 2007.
20. The interests Church Eficaz 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 Church Eficaz’ members.
21. Plaintiff Church Eficaz’ pastor, Julian Rodriguez, has ministered to hundreds of church members for over nine years. Since passage of H B 1804, he has visited the jails and found numerous instances of individuals who believed they were stopped by local Oklahoma police because they appeared “Latino” or otherwise “foreign”.
22. Pastor Julian has ministered in the jails for over four months and has never

seen as many detained Latino immigrants as he has seen after passage of HB 1804. Pastor Julian believes that the local Oklahoma police have been emboldened by the language of HB 1804, especially in light of statements made by the bill's author, Oklahoma State Rep. Randy Terrill – "It would be just fine with me if we exported all illegal aliens to the surrounding states." See enclosed Exhibit "B", September 26, 2007 US A Today newspaper article.

23. Such statement presumes that the State of Oklahoma has the right to "export" (sic) aliens to other states. Not only is it a federal function to deport, or otherwise regulate immigration, but contrary to Rep. Terrill's wishes, they cannot be deported or "exported" to other surrounding states, only to their country of origin.
24. Plaintiff Church Piedra Angular's primary function is to promote the gospel of Jesus Christ. Before the passage of HB 1804 Church Piedra Angular had approximately 400 members. It has lost at least 40 members as a result of the fear caused by HB 1804's passage. Leaders of Plaintiff Church Piedra Angular assume that many of the church members who left the church are undocumented.
25. Plaintiff Church Piedra Angular has many undocumented alien members. HB 1804 has created great hostility towards the Latino community in

Oklahoma and therefore adversely affects the work Church Piedra Angular performs in Oklahoma and for Oklahoma residents.

26. Church Piedra Angular'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 Tulsa, some of whom have school-aged children . The membership includes persons who have Spanish as their native tongue with a limited proficiency in English.
27. Church Piedra Angular intends to continue to provide services to all its church members, including but not limited to transporting them to different locations. Church Piedra Angular fears they will be subject to numerous felonies if they continue to transport individuals, who happen to be undocumented, after November 1, 2007. Church Piedra Angular does not plan to alter the services they provide after November 1, 2007.
28. The interests Church Piedra Angular 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 Church Piedra Angular' members.
29. Plaintiffs CONLAMIC, CONLAMIC-Oklahoma, Church Eficaz and Church Piedra Angular Church are collectively referred to herein as



“Plaintiff Churches.”

30. Plaintiff Church Piedra Angular has four employees. It fully complies with federal law in all of its hiring procedures.
31. Plaintiff Church Piedra Angular is aware that federal law does not require an employer to participate in any of the programs which, according to Section 6 of HB 1804, constitute a “Status Verification System.” The programs listed in Section 6 are voluntary and are not required by federal law.
32. If HB 1804 had not been enacted, Plaintiff Church Piedra Angular would not enroll in or use any of the programs designated a “Status Verification System” by Section 6 HB 1804 because participation in such programs is burdensome and time consuming. On November 1, 2007, however, Plaintiff will enroll in and begin to use a “Status Verification System” in order to insulate itself from the strict liability created by Section 7 of HB 1804.
33. Participation in a Status Verification System after November 1, 2007 is necessitated by HB 1804, because according to Section 7, if Plaintiff Church Piedra Angular fires an employee for theft or any other legitimate reason, it will be subject to a discrimination claim by the fired employee if another employee happens to be undocumented. Plaintiff would be subject

to the lawsuit in that case despite the fact that its management properly complies with all federal laws and regulations pertaining to employment.

34. Participation in a Status Verification System will be burdensome and time consuming for Plaintiff Church Piedra Angular.
35. Plaintiff Church Piedra Angular, as of November 1, 2007, will continue to follow federal immigration and tax law but will require independent contractors to show proof of lawful status, unless otherwise ordered by this court.
36. Plaintiff T-Mac Construction, Inc. has approximately 30-35 employees. It fully complies with federal law in all of its hiring procedures.
37. Plaintiff T-Mac Construction, Inc. is aware that federal law does not require an employer to participate in any of the programs which, according to Section 6 of HB 1804, constitute a "Status Verification System." The programs listed in Section 6 are voluntary and are not required by federal law.
38. If HB 1804 had not been enacted, Plaintiff T-Mac Construction, Inc. would not enroll in or use any of the programs designated a "Status Verification System" by Section 6 HB 1804 because participation in such programs is burdensome and time consuming. On November 1, 2007, however, Plaintiff will enroll in and begin to use a "Status Verification System" in

order to insulate itself from the strict liability created by Section 7 of HB 1804.

39. Participation in a Status Verification System after November 1, 2007 is necessitated by HB 1804, because according to Section 7, if Plaintiff T-Mac Construction, Inc. fires an employee for theft or any other legitimate reason, it will be subject to a discrimination claim by the fired employee if another employee happens to be undocumented. Plaintiff would be subject to the lawsuit in that case despite the fact that its management properly complies with all federal laws and regulations pertaining to employment.
40. Participation in a Status Verification System will be burdensome and time consuming for Plaintiff T-Mac Construction, Inc..
41. Plaintiff T-Mac Construction, Inc., as of November 1, 2007, will continue to follow federal immigration and tax law but will require independent contractors to show proof of lawful status, unless otherwise ordered by this court.
42. Plaintiff T-Mac Construction, Inc. also owns four rental properties. Because of HB 1804, Plaintiff T-Mac Construction, Inc. will no longer rent the properties to undocumented aliens, but has been unable to find tenants. T-Mac Construction, Inc. has therefore lost revenue as a direct result of HB 1804.

43. Plaintiff Chilino's Restaurant has approximately 400 employees. It fully complies with federal law in all of its hiring procedures.
44. Plaintiff Chilino's Restaurant has entered into at least one contract with the State of Oklahoma for a catering job.
45. Plaintiff Chilino's Restaurant is aware that federal law does not require an employer to participate in any of the programs which, according to Section 6 of HB 1804, constitute a "Status Verification System." The programs listed in Section 6 are voluntary and are not required by federal law.
46. If HB 1804 had not been enacted, Plaintiff Chilino's Restaurant would not enroll in or use any of the programs designated a "Status Verification System" by Section 6 HB 1804 because participation in such programs is burdensome and time consuming. On November 1, 2007, however, Plaintiff will enroll in and begin to use a "Status Verification System" in order to insulate itself from the strict liability created by Section 7 of HB 1804. Also, Section 7 requires that anyone contracting with a public employer must use a Status Verification System.
47. Participation in a Status Verification System after November 1, 2007 is necessitated by HB 1804, because according to Section 7, if Plaintiff Chilino's Restaurant fires an employee for theft or any other legitimate reason, it will be subject to a discrimination claim by the fired employee if

another employee happens to be undocumented. Plaintiff would be subject to the lawsuit in that case despite the fact that its management properly complies with all federal laws and regulations pertaining to employment.

48. Participation in a Status Verification System will be burdensome and time consuming for Plaintiff Chilino's Restaurant.
49. Plaintiff Chilino's Restaurant, as of November 1, 2007, will continue to follow federal immigration and tax law but will require independent contractors to show proof of lawful status, unless otherwise ordered by this court.
50. Plaintiff Chilino's Restaurant fears loss of revenue as a result of HB 1804.
51. Plaintiffs Church Piedra Angular, T-Mac Construction, Inc. and Chilino's Restaurant will hereby be referred to as "Employer Plaintiffs". Unless HB 1804 is permanently enjoined and declared invalid, the Employer Plaintiffs will have to participate in a burdensome and time consuming Status Verification System.
52. Plaintiff John Doe 1 is a resident of Oklahoma. He has lived in Oklahoma for over five years. He is originally from Mexico.
53. Plaintiff John Doe 1 is an undocumented alien.
54. Plaintiff John Doe 1 applied for a driver's license with the State of

Oklahoma and the license was denied. Plaintiff was not given any due process opportunities to contest the denial of his license. Plaintiff John Doe 1 is otherwise qualified to hold an Oklahoma driver's license except for his undocumented status.

55. Plaintiff John Doe 1 was denied a driver license because 47 O. S. § 6-103(A)(9) provides that driver licenses may not be issued to undocumented aliens.
56. Plaintiff John Doe 2 and Plaintiff Jane Doe 1 are husband and wife. They are both undocumented aliens.
57. Plaintiffs John Doe 2 and Jane Doe 1 were qualified for and received food stamps in 2001 when Plaintiff John Doe 2 was hurt on the job, and Medicaid when Plaintiff Jane Doe 1 was hospitalized for the births of their four daughters.
58. Plaintiffs John Doe 2 and Jane Doe 1 are qualified for and intend to seek further public benefits after November 1, 2007.
59. Plaintiff Jane Doe 1 possesses an Oklahoma driver license. The license expires in March, 2008. Because of section 4 of HB 1804 and 47 O.S. §§ 6-115 and 6-122, she will be unable to renew her driver license in March, 2008.

60. Plaintiff John Doe 3 has been a resident of Oklahoma for (3) three years. He is originally from Guatemala.
61. He is a resident of Oklahoma City and has been a tenant in Oklahoma City for (3) three years.
62. Plaintiff John Doe 3 is an undocumented alien.
63. Plaintiff John Doe 3 recently received an eviction notice from his landlord in which his landlord specifically cites the effectuation of H B 1804 on November 1, 2007 as the reason why she is requiring that John Doe 3 provide her with a valid driver license and a valid United States social security number in order for him to be allowed to continue to rent from her.
64. Plaintiff John Doe 3 has a contract with his landlord for (1) one year. However, after (4) months of tenancy she not only threatened to evict him should he not provide the above-mentioned documentation, but also came to the premises and physically threatened to throw him out of the house he rents if he did not show her the above-mentioned documentation.
65. Plaintiff Jane Doe 2, Plaintiff Jane Doe 3 and Plaintiff Jane Doe 4 are citizens of Guatemala, residents of Oklahoma City and undocumented aliens.
66. Jane Doe 2, Jane Doe 3 and Jane Doe 4 signed a one-year residential lease.

67. After they had lived in the premises for approximately four months, Jane Doe 2, Jane Doe 3 and Jane Doe 4 were asked by their landlord to leave because of HB 1804.
68. Plaintiff John Doe 4 is a citizen of Guatemala, a resident of Oklahoma City and an undocumented alien.
69. John Doe 4 signed a one-year residential lease.
70. After John Doe 4 had been living in the premises for nine months, he received an eviction notice from his landlords in which they specifically cite the effectuation of HB 1804 on November 1, 2007 as the reason why they are requiring that John Doe 4 provide them with a valid driver license and a valid United States social security number in order for him to be allowed to continue to rent from them.
71. Plaintiff John Doe 5 is a citizen of Guatemala, a resident of Oklahoma City and an undocumented alien.
72. John Doe 5 signed a one-year residential lease.
73. After John Doe 5 had lived in the premises for seven to eight months, he was asked by his landlord to leave because of HB 1804.
74. Plaintiff John Doe 6 and Plaintiff Jane Doe 5 are citizens of Guatemala, residents of Oklahoma City and undocumented aliens.



75. John Doe 6 and Jane Doe 5 signed a one-year residential lease. When they signed the lease, they were asked for no proof of identity.
76. After John Doe 6 and Jane Doe 5 had lived in the premises for almost four months, they received an eviction notice from their landlords in which the landlords specifically cite the effectuation of HB 1804 on November 1, 2007 as the reason why they are requiring that John Doe 6 and Jane Doe 5 provide them with valid driver licenses and valid United States social security numbers in order for John Doe 6 and Jane Doe 5 to be allowed to continue to rent from the landlords.
77. Plaintiff John Doe 7 is a citizen of Guatemala, a resident of Oklahoma City and an undocumented alien. He has two U.S. citizen children.
78. John Doe 7 received an eviction notice from his landlords in which the landlords specifically cite the effectuation of HB 1804 on November 1, 2007 as the reason why they are requiring that John Doe 7 provide them with a valid driver license and a valid United States social security number in order for John Doe 7 to be allowed to continue to rent from them.
79. Plaintiffs John Doe 1, 2, 4, 5, 6 and 7 and Jane Doe 1, 2, 3, 4 and 5 are collectively referred to herein as "Individual Plaintiffs."
80. The Individual Plaintiffs, as of November 1, 2007, will not require proof of documentation from those who visit their homes and/or ride in their

vehicles. The Individual Plaintiffs are undocumented but otherwise qualify as Oklahoma residents, to obtain a driver's license.

81. Plaintiffs fear that if, after November 1, 2007, they are arrested for violation of Section 3 of HB 1804, a felony, they will be denied bail pursuant to Section 5 of HB 1804.
82. Individual Plaintiffs who have received eviction notices reasonably fear difficulty in finding housing as a direct result of HB 1804.
83. The Individual Plaintiffs, Employer Plaintiffs, and Plaintiff Churches have suffered or will suffer as a result of HB 1804's unconstitutional and otherwise illegal provisions as set out in counts 1 thru 15 infra.
84. At all times alleged herein, Oklahoma officials, employees and agents were acting under color of state law.
85. Defendant Brad Henry is the Governor of the State of Oklahoma (the "Governor"). He is named herein as a Defendant in his capacity as Governor.
86. Defendant Drew Edmondson is the Attorney General of the State of Oklahoma (the "Attorney General"). He is named herein as a Defendant in his capacity as Attorney General.
87. Each Plaintiff and the members and/or shareholders of each Plaintiff are

affected by the actions of the State of Oklahoma in enacting into law HB 1804.

88. Each Plaintiff has standing to sue in this action.
89. The Supremacy Clause, due process, right against self-incrimination and equal protection claims of Plaintiffs arise under the Constitution and laws of the United States. As a result, Plaintiffs have a right to sue arising under 42 U.S.C. § 1983.
90. This Court has jurisdiction over the Supremacy Clause, due process, right against self-incrimination and equal protection claims of Plaintiffs pursuant to 28 U.S.C. §§ 1331 and 1343 because they arise under the Constitution and laws of the United States.
91. This Court has jurisdiction over the Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367.
92. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).
93. Pursuant to 28 U.S.C. §§ 2201-2202, the Court may issue a declaratory judgment and further necessary or proper relief.

## ALLEGATIONS COMMON TO ALL CLAIMS

94. On or about May 8, 2007, the Honorable Brad Henry, the Governor of Oklahoma, signed into law HB 1804, a bill passed by the Oklahoma Legislature on or about May 1, 2007.
95. HB 1804 creates a state felony for a any person who, "knowingly or in reckless disregard of the fact" of an alien's illegal status, transports, harbors, or conceals any undocumented immigrant.
96. HB 1804 places new responsibilities on certain agencies that issue identification documents. The bill provides that federal, state, and local government agencies, and in some cases public schools or state or private educational institutions, shall only issue identification documents to US citizens, legal permanent residents, or other immigrants with lawful status demonstrated by specified "valid documentary evidence." Furthermore, HB 1804 states that if the Department of Public Safety ("DPS") is notified by a local, state, or a federal government agency indicating reasonable suspicion that an individual is unlawfully present, then DPS may not issue even a renewed, duplicated or reissued driver's license without verifying that individual's legal status by specified "valid documentary evidence."
97. HB 1804 requires that jail authorities determine the immigration status of persons charged with a felony or with driving under the influence. The bill

states that “[i]f verification of lawful status cannot be made from documents in the possession of the prisoner, verification shall be made within forty-eight (48) hours through a query to the Law Enforcement Support Center of the United States Department of Homeland Security or other office or agency designated for that purpose by the United States Department of Homeland Security”; and in the event that legal status is not verified, the bill states that the officer must report the inmate to the Department of Homeland Security. It further provides that a foreign national who has not been lawfully admitted is presumed to be a flight risk for bond purposes.

98. HB 1804 will require public employers to register with and utilize a Status Verification System to determine the federal employment authorization status of all new employees. It will also extend the requirement to participate in the Status Verification System to entities which contract or subcontract with a public employer for the physical performance of services within the State of Oklahoma. The bill will make it a discriminatory practice for an employer to discharge a United States citizen or permanent resident alien while retaining an unauthorized alien in certain circumstances.
99. HB 1804 will deny federal, state or local public benefits to persons over the age of fourteen who are unable to verify their lawful status.

100. HB 1804 will require that, in certain circumstances, contracting entities withhold a contractor's state income tax at the maximum rate if the contractor fails to verify employment authorization.
101. HB 1804 directs the Attorney General to negotiate, and the Governor and Attorney General to sign, a memorandum of understanding between the State of Oklahoma and the Department of Justice and Department of Homeland Security concerning, among other things, the enforcement of federal immigration laws. The bill prohibits agencies and local authorities from preventing the communication of information regarding an individual's unlawful status to the Department of Homeland Security.
102. HB 1804 will restrict the ability of undocumented aliens to obtain in-state tuition benefits for post-secondary education.
103. HB 1804 in essence creates a new state mechanism to interpret and enforce federal immigration law, which is prohibited by the United States Constitution.
104. Although the law is not to take effect until November 1, 2007, it has already been the subject of countless media reports in both the English and Spanish-speaking press, and has served as a catalyst for increased enforcement efforts by local and state authorities as well as numerous cases of racial profiling.

105. The law's increasing notoriety in many Latino communities has scared families into keeping their children home from school. This particular fear was caused by media coverage of certain legislators' initial attempt unconstitutionally to restrict access to public schools to only those children with US citizenship, lawful permanent residency or other type of legal status. After the ill-informed legislators were made aware that Supreme Court case law clearly protects the rights of all children to attend elementary through high school, regardless of their immigration status, this provision was removed from the final bill. See *Plyler v. Doe*, 457 U.S. 202 (1982). Nevertheless, the harm had been done, as immigrant parents throughout the state have decided not to send their children to school.
106. On September 5, 2007, five members of the Oklahoma House of Representatives addressed a letter to the Attorney General requesting his opinion on a number of issues relating to HB 1804 and questioning the constitutionality of HB 1804. The letter is attached as Exhibit "C", and incorporated herein by reference.
107. The city of Hazelton, Pennsylvania's recent attempt to also regulate and interpret federal immigration law was soundly rebuffed by a federal district court. See *Lozano v. City of Hazelton*, 496 F. Supp. 2d 477 (M.D. Pa. 2007). Although many of the issues in the case at bar are different than those in *Lozano*, and will be subsequently delineated throughout the

complaint, the underlying premise applies to both matters, and numerous attempts by municipalities and states throughout the country to create new immigration categories - such attempts are pre-empted by the Supremacy Clause. *See eg. LULAC v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995).

108. *Conflicts with Federal Law's Benefit Eligibility Requirements*. HB 1804 requires state and local agencies to verify the lawful presence of individuals over the age of 14 who apply for federal, state or local public benefits. It requires applicants to verify that they are both a "qualified" alien and "lawfully present" in the U.S. This requirement fails to track federal law, which allows additional groups of immigrants to secure such benefits, and which doesn't utilize age 14 for benefits eligibility verification purposes.
109. The bill requires participation in a "Status Verification System," the most likely component of which is the Basic Pilot Program. Federal law does not require participation in any such program. Federal immigration law expressly regulates the employment and hiring of unauthorized workers and the Basic Pilot program is not required under current federal law. State bills that require the use of the Basic Pilot Program therefore are preempted by federal law because they attempt to regulate immigration and legislate in a field that has been occupied by the federal government.



110. The bill also creates a new private cause of action against an employer for any U.S. citizen or lawful permanent resident who is discharged and can show that the employer retained an unauthorized worker. This provision would protect an employee who was terminated for cause and would reward him or her for the criminal acts that caused the termination, such as embezzlement, theft, arson or assault on a fellow employee.
111. The new cause of action will cause turmoil. Discharged employees and their lawyers will have the right to confidential employee records to try to prove that an undocumented alien was retained.
112. Former employees terminated for cause will be likely to sue their former employers under the new cause of action for knowingly retaining an unauthorized alien.
113. The new cause of action is likely to lead to discrimination against potential employees who appear to be of foreign national origin.
114. The new cause of action is based upon strict liability and does not require intent, knowledge, recklessness, or even a negligent state of mind.
115. In order to avoid liability under the new cause of action, an employer who does not participate in a Status Verification System must either retain all employees, regardless of their misconduct, or discharge all employees in the

event that, despite the employer's best efforts to verify employment authorization, one employee might be an undocumented alien.

116. *Require State Determinations Regarding Compliance with Federal Immigration Law.* The bill makes sheltering or moving an immigrant who may have entered or remained in the U.S. while undocumented a *state* crime. This requires a *state* determination that an individual entered the U.S. in violation of *federal* immigration law. The federal government, not the states, has this power. The state determination could conflict with the way that the federal government interprets immigration law or with other foreign policy considerations.

117. 47 O.S. § 6-103(A)(9) provides that driver licenses may not be issued to undocumented aliens.

118. 47 O.S. § 6-106(B)(10) provides that applicants for a driver license must indicate whether they are eligible for a license and not prohibited by 47 O.S. § 6-103(A)(9) from obtaining a license.

119. 47 O.S. § 6-114( A) prohibits the issuance of a replacement license to undocumented aliens.

120. 47 O.S. § 6-115(A) and ( D) provide that an alien's driver license expires at the expiration of his or her documentation, and that a renewed license will only be valid until the expiration of his or her documentation.

121. 47 O.S. § 6-122 provides that undocumented aliens may not renew their driver licenses by mail.
122. Plaintiffs are entitled to injunctive relief. They have a strong likelihood of success on the merits and will suffer irreparable harm if HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are not enjoined and are enforced against Plaintiffs, and other individuals, organizations, and employers in Oklahoma.
123. Plaintiffs will suffer irreparable harm as a result of the potential enforcement of HB 1804 and have suffered irreparable harm as a result of the enforcement of 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.
124. Plaintiffs are entitled to recover their costs and attorneys' fees pursuant to 42 U.S.C. § 1988.

### **FIRST CLAIM FOR RELIEF**

### **VIOLATIONS OF SUPREMACY CLAUSE OF U.S. CONSTITUTION AND PRE-EMPTION BY FEDERAL LAW**

125. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
126. Article VI, Section 2 of the U.S. Constitution states, "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 or Laws of any State to the Contrary notwithstanding.”

127. Under the Supremacy Clause of the U.S. Constitution, federal law may expressly or implicitly pre-empt state and local laws.
128. In accordance with its exclusive power over matters of immigration, the U.S. Congress has adopted, pursuant to the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., a comprehensive system of laws, regulations, and procedures and has created administrative agencies that determine, subject to judicial review, whether and under what conditions an individual may enter, stay in, and work in the U.S. and a system of civil and criminal penalties for those violating the law, including employers who knowingly employ unauthorized aliens.
129. When enacting the Immigration Reform and Control Act, Congress expressly pre-empted state and local laws. The Immigration Reform and Control Act provides, in part, as follows: "[Federal law] pre-empts any state or local law imposing similar criminal sanctions (other than through licensing and similar laws) upon those who employ unauthorized aliens." [8

U.S.C. § 1324a (h) (2)].

130. Title 8, Section 1188(h)(2) explicitly provides that portions of the same title “preempt any State or local law regulating admissibility of nonimmigrant workers.”
131. The immigration laws, procedures, and policies created by the federal government regulate immigration and confer rights in a careful balance reflecting the national interest.
132. Congress carefully balanced the requirements and penalties in federal immigration law with consideration of the tension that immigration compliance and sanctions might cause relating to race, national origin, and citizenship discrimination.
133. The Constitution bars the State from interfering or obstructing the federal government's carefully crafted comprehensive immigration regime.
134. HB 1804 threatens the uniformity and primacy of the federal immigration system and conflicts with federal immigration law.
135. HB 1804 stands as an obstacle to the uniform enforcement and application of federal immigration laws and the comprehensive regime created by Congress.
136. Section 3 of HB 1804, which will be codified as 21 O.S. § 446, violates the

Supremacy Clause because it is preempted by federal legislation and because it requires persons other than those empowered by federal law and who have no particular knowledge or training in the area to assess the immigration status of other persons.

137. Section 4 of HB 1804, which will amend 21 O.S. § 1550.42, violates the Supremacy Clause because it is preempted by federal legislation and because it requires persons other than those empowered by federal law and who have no particular knowledge or training in the area to assess the immigration status of other persons. Section 4 also purports to regulate federal government agencies in a manner which will interfere with the government's ability to carry out its federal function.

138. Section 4 exceeds the requirements of the REAL ID Act of 2005 and contradicts it because Section 4 applies to multiple forms of identification, while the REAL ID Act of 2005 applies only to driver licenses and state identification cards.

139. Section 5 of HB 1804, which will be codified as 22 O.S. § 171.2, violates the Supremacy Clause because it is preempted by federal legislation and because the detention it may authorize exceeds that authorized by 8 U.S.C. § 1252c.

140. Sections 6 and 7 of HB 1804, which will be codified as 22 O.S. §§ 1312

and 1313, violate the Supremacy Clause because they are preempted by federal legislation.

141. The licensing exception to the preemption clause contained in 8 U.S.C. § 1324a(h)(2) was designed and intended to allow state governments to take action against the business license for employers "found to have violated the sanctions provision" of 8 U.S.C. § 1324a—essentially only after the employer had been found by the federal government to have violated the federal law.
142. The licensing exception to the preemption clause in 8 U.S.C. § 1324a(h)(2) does not allow states to pass laws prohibiting the employment of unauthorized aliens, or the ability to define who actually are unauthorized aliens.
143. The federal government has enacted broad, comprehensive immigration laws that govern who is eligible to work in the United States and that govern the process by which employers must verify the eligibility of job applicants.
144. The federal government has occupied the field of immigration regulation through the Immigration and Nationality Act and the Immigration Reform and Control Act of 1986 ("IRCA"), including occupying the field relating to prohibiting the employment of unauthorized workers and verifying the

eligibility of job applicants.

145. Federal law governs the documents that employers must accept to make employment decisions regarding whether persons are authorized to work in this country.
146. Federal law prohibits employers from conducting any further investigation or taking any steps other than reviewing the documents that employees have the right, under federal law, to present to an employer
147. Once an employee has satisfied the verification requirements of 8 U.S.C. § 1324a, employers are barred by federal law from seeking additional information.
148. Federal law prohibits employers from making additional inquiries, conducting additional investigations, or taking additional steps to determine an applicant's or employee's eligibility to work in this country other than having examined the original documents that the employee elected to present and, if the employer voluntarily enters into an agreement, to utilize the Basic Pilot Program.
149. The federal government has failed to issue tamper-proof and forgery-proof forms of identification to persons that employers may rely upon to confirm with accuracy and reliability the identity of a person or the person's eligibility to work in the United States.



150. The State of Oklahoma has failed to issue tamper-proof and forgery-proof documents establishing the identity of residents of the State of Oklahoma.
151. Federal immigration law and federal employment discrimination laws prohibit employers from taking action to refuse to hire or discharge employees based upon their citizenship, national origin, race, color or other classifications protected by law.
152. HB 1804 imposes penalties on employers for state regulated immigration enforcement measures beyond and different than what the federal government requires.
153. Subsection C of section 7, which provides that it is a discriminatory practice to discharge a United States citizen or permanent resident alien employee while retaining an unauthorized alien employee under certain circumstances, is preempted by IRCA. It is inconsistent with the uniform enforcement of federal immigration law and Congress has already acted, through IRCA, to occupy the field regarding controlling the employment of aliens.
154. The federal government does not require employers to use the Employment Eligibility Verification System (Basic Pilot Program). It is a strictly voluntary program, except in the few cases where the government requires employers that violated the employment verification laws to use the Basic

Pilot Program as part of a settlement with the federal government.

155. The fact that the federal government does not require employers to use the Basic Pilot Program evidences the federal intent that the Basic Pilot Program remain voluntary and that employers are not to be required to use the Basic Pilot Program.
156. The fact that the federal government does not require employers to use the Social Security Number Verification Service evidences the federal intent that the Social Security Number Verification Service remain voluntary and that employers are not to be required to use the Social Security Number Verification Service.
157. The State of Oklahoma does not have the authority to require employers that do business with the State of Oklahoma to use the Basic Pilot Program, which is the component of the “Status Verification System” most likely to be used, or the Social Security Number Verification Service, and its attempt to do so is preempted by federal law.
158. HB 1804 will place burdens on the Executive Branch of the federal government including the Department of Justice, Department of Homeland Security, and Social Security Administration, that will impede the functions of those agencies.
159. By requiring that every employer use a “Status Verification System” which

is most likely to involve the Basic Pilot Program, HB 1804 places an impermissible burden on the Executive Branch of the federal government, including the Social Security Administration and the Department of Homeland Security, who currently do not have the resources to successfully absorb hundreds of Oklahoma users into the Basic Pilot Program, which currently has approximately 17,000 companies enrolled and only half that many that actively use the program.

160. Section 7 also violates the Supremacy Clause because it is preempted by the Civil Rights Act of 1964. The strict liability Section 7 seeks to impose upon employers is inconsistent with the purposes and provisions of the Civil Rights Act of 1964, which does not impose strict liability for employment discrimination.

161. Section 8 of HB 1804, which will be codified as 56 O.S. § 71, violates the Supremacy Clause because it is preempted by federal legislation and because it purports to regulate the provision of federal public benefits in a manner which will interfere with the government's ability to carry out its federal function. By creating an exception for certain programs "in the sole and unreviewable discretion of the United States Attorney General after consultation with [certain] appropriate federal agencies and departments[.]" Section 8 also purports to regulate discretionary acts of the Attorney General in such a way as to interfere with the government's ability to carry

out its federal function.

162. The bill requires employers to withhold income tax at the top marginal income tax rate from the compensation of an independent contractor if the contractor fails to provide “documentation to verify the independent contractor’s employment authorization . . . .” Employers who fail to do so are subject to a penalty equal to the amount they should have withheld under this bill, unless the employer is exempt from withholding by the Internal Revenue Service (IRS) pursuant to IRS Form 8233.
163. For purposes of federal tax compliance, the IRS distinguishes between “resident aliens” and “nonresident aliens,” which is based on whether the individual meets either the “green card test” or “substantial presence test”. Form 8233 only applies to nonresident aliens and is, therefore, most likely inapplicable here.
164. The SSA has estimated that 17.8 million of its records contain discrepancies related to name, date of birth, or citizenship status. The bill’s provision is likely to cause confusion among employers where the state is requiring them to do something that conflicts with the IRS guidance.
165. Section 10 of HB 1804, which will be codified as 74 O.S. § 20j, violates the Supremacy Clause because it is preempted by federal legislation, and because, by directing the United States Department of Justice and

Department of Homeland Security to negotiate and sign a “Memorandum of Understanding” with the State of Oklahoma, it also purports to regulate the discretionary acts of officers of the United States Department of Justice and Department of Homeland Security in such a way as to interfere with the government’s ability to carry out its federal function.

166. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it is preempted by federal law.

167. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

## **SECOND CLAIM FOR RELIEF**

### **VIOLATION OF THE FREE EXERCISE CLAUSE OF THE FIRST AMENDMENT TO THE U.S. CONSTITUTION**

168. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

169. The religious beliefs of CON LAMIC, CONLAMIC-Oklahoma Church Plaintiffs and the members of each are sincerely held.

170. Transporting church members, including undocumented alien members, to religious services is central to the religious beliefs and practices of the

above-named Plaintiffs' religion.

171. Section 3 of HB 1804 places a substantial burden on observation of these central beliefs and practices.

172. No compelling governmental interest justifies this burden.

173. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates the Free Exercise Clause of the First Amendment, as applied to the State of Oklahoma through the Fourteenth Amendment.

174. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

### **THIRD CLAIM FOR RELIEF**

#### **VIOLATION OF DUE PROCESS UNDER THE U.S. CONSTITUTION DUE TO VAGUENESS AND OVERBREADTH**

175. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

176. HB 1804 is void for vagueness because persons of common intelligence must necessarily guess at its meaning and differ as to its application.

177. HB 1804 is void for overbreadth because it reaches a substantial amount of constitutionally protected conduct.
178. Association, religious exercise, travel, education of one's children as one chooses, contract, pursuit of livelihood, working for a living and enjoyment of property are constitutionally protected conduct.
179. Section 3 of HB 1804, which will be codified as 21 O.S. § 446, is unconstitutionally vague because it fails to specify the precise conduct that constitutes transporting, moving or attempting to transport an undocumented alien "in furtherance of the illegal presence of the alien in the United States."
180. Section 3 is also unconstitutionally vague because it fails to specify the precise conduct that constitutes concealing, harboring or sheltering an undocumented alien from detection.
181. The state-of-mind elements of knowledge or reckless disregard contained in Section 3 apply only to a defendant's state of mind with regard to the unlawful presence of an alien; these elements do not apply with regard to the acts of transporting, moving or attempting to transport, or to the acts of concealing, harboring, or sheltering from detection.
182. Section 3 is unconstitutionally vague because it fails to specify what documentation or proof on the part of the alien would suffice to prevent a

person transporting, moving, attempting to transport, concealing, harboring, or sheltering the alien from doing these activities with knowledge or reckless disregard for the alien's unlawful presence.

183. Section 3 could be construed to forbid activities including but not limited to permitting a person to ride in one's vehicle or enter onto one's property as a house guest, religious worshiper or tenant, unless one knows that the person is lawfully present in the United States. This section of HB 1804 is thus unconstitutionally overbroad because it reaches a substantial amount of constitutionally protected conduct including but not limited to association, religious exercise, travel, education of one's children as one chooses, contract, pursuit of livelihood, working for a living and enjoyment of property.

184. Section 5 of HB 1804, which will be codified as 22 O.S. § 171.2, is unconstitutionally vague because it fails to specify what documents or proof are needed in order to "determine the citizenship status" or "lawful immigration status" of a prisoner or "verify that the prisoner has been lawfully admitted to the United States . . . ."

185. Section 5 is also unconstitutionally vague because it fails to specify whether, in the event that "verification of lawful status cannot be made from documents in the possession of the prisoner," the prisoner must



remain incarcerated for the specified 48 hours within which verification must be made.

186. Sections 6 and 7 are unconstitutionally vague because they fail to specify what constitutes an “independent, third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in this paragraph [Section 6, Subsection 1]”; which would insulate an employer from strict liability under Section 7.
187. Section 7 is unconstitutionally vague because it fails to specify what it means to “utilize,” “participate in” or “use” a Status Verification System.
188. The vague and overbroad language of HB 1804 violates the due process rights of all Plaintiffs.
189. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates the due process clause of the U.S. Constitution on account of vagueness and overbreadth.
190. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

#### **FOURTH CLAIM FOR RELIEF**

#### **VIOLATION OF DUE PROCESS UNDER THE OKLAHOMA CONSTITUTION**

## **DUE TO VAGUENESS AND OVERBREADTH**

191. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
192. For the reasons discussed in Plaintiffs' cause of action for violation of due process under the U.S. Constitution due to vagueness, HB 1804 is unconstitutionally vague and overbroad.
193. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates Article 2, Section 7 of the Oklahoma Constitution on account of vagueness and overbreadth.
194. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

## **FIFTH CLAIM FOR RELIEF**

### **VIOLATION OF SUBSTANTIVE DUE PROCESS UNDER THE U.S.**

#### **CONSTITUTION**

195. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
196. Under the Fourteenth Amendment to the U.S. Constitution, state and local governments are prohibited from arbitrarily and capriciously depriving a

person of a fundamental right guaranteed by the U.S. Constitution.

197. Undocumented aliens, including Plaintiffs, are persons entitled to fundamental rights under the Fourteenth Amendment.
198. Plaintiffs have fundamental rights to associate with whomever Plaintiffs choose, to travel, to contract, to pursue a livelihood, to work for a living, to liberty, to life, and to property.
199. Section 3 of HB 1804, which will be codified as 21 O.S. § 446, infringes on Individual Plaintiffs' and Plaintiff Churches' fundamental right to associate with whomever these Plaintiffs choose to associate because it in effect prohibits people from permitting the presence of undocumented aliens in their vehicles or on their property.
200. Section 3 infringes on Individual Plaintiffs' and Plaintiff Churches' fundamental right to travel because it prohibits people from transporting, moving or attempting to transport undocumented aliens, or from concealing, harboring or sheltering them on "any . . . means of transportation . . ." This provision will have a chilling effect on the willingness of individuals and common carriers to transport undocumented aliens, and will thus in effect drastically restrict the freedom of undocumented aliens to travel.
201. Section 3 infringes on Individual Plaintiffs' fundamental right to contract

because it will have a chilling effect on the ability of undocumented aliens to rent or lease property and to purchase tickets on common carriers.

202. Section 4 of HB 1804, which will amend 21 O.S. § 1550.42, infringes on Individual Plaintiffs' fundamental right to travel because it will prevent undocumented aliens from obtaining driver licenses and therefore from driving motor vehicles without fear of prosecution.
203. Section 4 is not reasonably related to any legitimate state objective because it is likely to encourage undocumented aliens to drive without licenses. The provision will therefore contribute to reckless driving, driving under the influence and disregard of the rules of traffic, because penalties like suspension and revocation of driver licenses will no longer have any conceivable effect on undocumented aliens who will no longer be able to obtain driver licenses in the first place. The bill will thus increase the "lawlessness" decried in section 2.
204. Section 5 of HB 1804, which will be codified as 22 O.S. § 171.2, infringes on Individual Plaintiffs' fundamental right to liberty because it could be interpreted to mandate incarceration of a person for up to 48 hours simply because he or she is unable to verify "lawful status."
205. Sections 6 and 7 of HB 1804, which will be codified as 25 O.S. §§ 1312 and 1313, infringe on Employer Plaintiffs' fundamental rights to travel, to

property, to contract, to pursue a livelihood and to work for a living.

206. Section 8 of HB 1804, which will be codified as 56 O.S. § 71 infringes on Individual Plaintiffs' fundamental right to life because it drastically impedes the access of undocumented aliens to health care. While it permits the receipt of public benefits for "emergency medical condition[s]," it creates an exception for organ transplants. Often people in need of health care do not know whether their medical condition is an "emergency" or not; the requirement that an alien sign an affidavit under penalty of perjury in order to obtain public benefits for health care will present many undocumented aliens with the catch-22 of forgoing the public benefits necessary to obtain medical care for possible emergency conditions, or facing prosecution for making out a false affidavit. The provision denies public benefits which would enable aliens to receive life-saving organ transplants. The requirement that applicants for public benefits verify their presence may prevent undocumented aliens from even seeking medical care for possible emergency conditions.

207. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 infringe on Individual Plaintiffs' fundamental right to travel.

208. Because HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 limit fundamental rights guaranteed by the

United States Constitution, they can only be justified by a compelling state interest.

209. There is no compelling state interest for restricting Plaintiffs' fundamental rights by enacting HB 1804 or 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.
210. Neither HB 1804 nor 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are narrowly tailored to achieve any compelling state interest.
211. Neither HB 1804 nor 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are the least restrictive method available to achieve any compelling state interest.
212. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate the substantive due process guarantees of the Fourteenth Amendment to the U.S. Constitution.
213. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

## **SIXTH CLAIM FOR RELIEF**

### **VIOLATION OF SUBSTANTIVE DUE PROCESS GUARANTEES OF THE OKLAHOMA CONSTITUTION**

214. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

215. For the reasons discussed in Plaintiffs' cause of action for violation of substantive due process guarantees of the U.S. Constitution, HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 violate the substantive due process guarantees of Article 2, Section 7 of the Oklahoma Constitution.

216. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate the substantive due process guarantees of Article 2, Section 7 of the Oklahoma Constitution.

217. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

## **SEVENTH CLAIM FOR RELIEF**

### **VIOLATION OF PROCEDURAL DUE PROCESS GUARANTEES UNDER**

## THE U.S. CONSTITUTION

218. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
219. Under the 14<sup>th</sup> Amendment to the U.S. Constitution, state and local governments are prohibited from depriving any person of property without due process of law.
220. Due process of law requires, at a minimum, that before any person, whether an individual, corporation or other business entity may be deprived of a license or permit, the State must provide:
- (a) Notice and a reasonable definite statement of the charges or matters at issue.
  - (b) Notice of the time and place of a hearing.
  - (c) The right to produce witnesses at a hearing.
  - (d) The right to examine witnesses at a hearing.
  - (e) The right to a full consideration and determination of the issues based on the evidence.
221. Identification documents are property interests that are subject to the due process protections of the 14<sup>th</sup> Amendment to the U.S. Constitution.



222. The Governor, the Attorney General, the State of Oklahoma and its political subdivisions and other public officials are prohibited by the 14<sup>th</sup> Amendment from suspending or revoking driver licenses unless the State or its political subdivisions provide the holder of the license due process of law.
223. Section 4 of HB 1804, which will amend 21 O.S. § 1550.42, violates Plaintiff Jane Doe 1's procedural due process rights because it will prevent her from renewing her driver license without the requirements of due process including but not limited to notice and opportunity to be heard.
224. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 violate Plaintiff John Doe 1's and Plaintiff Jane Doe 1's procedural due process rights because they will prevent them from obtaining, renewing, duplicating or having reissued driver licenses to which they are entitled, without the requirements of due process including but not limited to notice and opportunity to be heard.
225. Section 5 of HB 1804, which will be codified as 22 O.S. § 171.2, violates Individual Plaintiffs' procedural due process rights because it will deprive them of liberty without the requirements of due process, including but not limited to notice and opportunity to be heard.
226. Section 8 of HB 1804, which will be codified as 56 O.S. § 71, violates

Individual Plaintiffs' procedural due process rights because it threatens to prevent them from obtaining or continuing to obtain public benefits to which they may be entitled, without the requirements of due process including but not limited to notice and opportunity to be heard.

227. HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 do not provide Plaintiff John Doe 1 and Plaintiff Jane Doe 1 with due process before the State may deprive them of property interests.
228. The procedures established under HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 do not satisfy the due process requirements of the United States Constitution
229. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate procedural due process guarantees of the U.S. Constitution.
230. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

**EIGHTH CLAIM FOR RELIEF**

**VIOLATION OF PROCEDURAL DUE PROCESS GUARANTEES OF**

**OKLAHOMA CONSTITUTION**

231. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
232. For the reasons discussed in Plaintiffs' cause of action for violation of procedural due process guarantees of the U.S. Constitution, the procedures established under HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 do not satisfy the due process requirements of the Oklahoma Constitution
233. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate the procedural due process guarantees of the Oklahoma Constitution.
234. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

## **NINTH CLAIM FOR RELIEF**

### **VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE U.S.**

#### **CONSTITUTION**

235. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
236. Plaintiffs are persons within the jurisdiction of the State of Oklahoma.
237. HB 1804 creates a classification based on alienage.
238. HB 1804 has already spawned discrimination by state actors and private individuals against individuals of foreign national origin.
239. This discrimination reflects, and raises a presumption of, intent to discriminate against persons of foreign national origin.
240. Section 3 of HB 1804, which will be codified as 21 O.S. § 446, creates a classification based on undocumented alienage.
241. Section 3 infringes on the constitutionally protected rights of undocumented aliens to associate with whomever they wish, to travel and to contract.
242. Section 4 of HB 1804, which will amend 21 O.S. § 1550.42, creates a classification based on undocumented alienage.
243. Section 4 infringes on the constitutionally protected rights of undocumented

aliens to travel.

244. Section 5 of HB 1804, which will be codified as 22 O.S. § 171.2, creates a classification based on alienage, whether or not an alien is documented.

245. Section 5 infringes on the constitutionally protected rights of aliens to liberty.

246. Section 7 of HB 1804 infringes on the constitutionally protected right of Employer Plaintiffs to property.

247. Section 8 of HB 1804, which will be codified as 56 O.S. § 71, creates a classification based on undocumented alienage.

248. Section 8 infringes on the constitutionally protected rights of undocumented aliens to life.

249. Section 8 covers persons fourteen years old and up, some of whom are therefore minor children, who are not accountable for their status as undocumented aliens.

250. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 infringe on the constitutionally protected rights of Plaintiffs to travel.

251. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 create a classification based on undocumented alienage.

252. The classifications created by HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are not necessary to serve a compelling state interest.
253. Neither HB 1804 nor 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are narrowly tailored to achieve any compelling state interest.
254. Neither HB 1804 nor 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are the least restrictive method available to achieve any compelling state interest.
255. The classifications created by HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are not substantially related to any important government interest.
256. The classifications created by HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 do not rationally further any legitimate state interest.
257. Particularly irrational are provisions which deny public benefits including but not limited to scholarships and resident tuition to undocumented aliens who pay the same taxes as other residents of the State of Oklahoma.
258. There is no evidence that undocumented aliens impose any significant

burdens on the economy of Oklahoma

259. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate the Equal Protection Clause of the U.S. Constitution.

260. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

#### **TENTH CLAIM FOR RELIEF**

#### **VIOLATION OF THE EQUAL PROTECTION GUARANTEE OF THE OKLAHOMA CONSTITUTION**

261. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

262. The Oklahoma Constitution guarantees equal protection to all within its jurisdiction through its Article 2, Section 7 Due Process Clause.

263. The equal protection guarantee of the Oklahoma Constitution is co-extensive with its federal counterpart.

264. For the reasons discussed in the preceding cause of action, HB 1804 violates

the due process guarantee of the Oklahoma Constitution.

265. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates the equal protection guarantee contained in the Oklahoma Constitution.

266. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

#### **ELEVENTH CLAIM FOR RELIEF**

#### **VIOLATION OF THE CONTRACTS CLAUSE OF THE U.S. CONSTITUTION**

267. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

268. Contracts exist between Plaintiff John Does 3, 4, 5, 6 and 7 and Plaintiff Jane Does 2, 3, 4 and 5 and their landlords which will be affected by Section 3 of HB 1804.

269. HB 1804 substantially impairs the obligations of these contracts.

270. A contract exists between Plaintiff Jane Doe 1 and the State of Oklahoma pursuant to which the State of Oklahoma agreed to renew her driver license.

271. HB 1804 will substantially impair the obligation of this contract.



272. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 substantially impairs the obligation of this contract.
273. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate the Contracts Clause of the U.S. Constitution.
274. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

### **TWELFTH CLAIM FOR RELIEF**

#### **VIOLATION OF ARTICLE 2, SECTION 15 OF THE OKLAHOMA CONSTITUTION**

275. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
276. For the reasons discussed in the preceding cause of action, HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 violate Article 2, Section 15 of the Oklahoma Constitution.
277. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are

unconstitutional because they violate Article 2, Section 15 of the Oklahoma Constitution.

278. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

### **THIRTEENTH CLAIM FOR RELIEF**

#### **VIOLATION OF THE RIGHT AGAINST SELF-INCRIMINATION CONTAINED IN THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION**

279. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

280. The Fifth Amendment of the United States Constitution provides that “No person . . . shall be compelled in any criminal case to be a witness against himself . . . .”

281. Section 8 of HB 1804, which will be codified as 56 O.S. § 71, requires that applicants for public benefits execute an affidavit under penalty of perjury attesting to their lawful status.

282. Although section 8 provides an exception to the requirement for verification of lawful presence in the event of a medical emergency, it is often difficult to

determine whether or not a medical condition is an emergency.

283. Section 8 excludes organ transplant procedures from the category of medical emergency.
284. Section 8 impliedly leaves the determination of whether a medical condition is an emergency to the agency or person administering the public benefit.
285. Section 8 may will thus in certain circumstances place undocumented aliens in the catch-22 of either abstaining from public benefits to obtain life-saving medical treatment, or committing a crime.
286. Section 8 thus coerces undocumented aliens to commit a crime.
287. Section 8 violates the Fifth Amendment prohibition against self-incrimination, as applied to the states through the Fourteenth Amendment.
288. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates the right against self-incrimination contained in the U.S. Constitution.
289. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

**FOURTEENTH CLAIM FOR RELIEF**

**VIOLATION OF THE RIGHT AGAINST SELF-INCRIMINATION CONTAINED  
IN THE OKLAHOMA CONSTITUTION**

290. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

291. Article 2, section 21 of the Oklahoma Constitution provides, “[n]o person shall be compelled to give evidence which will tend to incriminate him, except as in this Constitution specifically provided . . . .”

292. For the reasons discussed in the preceding cause of action, HB 1804 is likely to force people to incriminate themselves.

293. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates the right against self-incrimination contained in the Oklahoma Constitution.

294. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

**FIFTEENTH CLAIM FOR RELIEF**

**VIOLATION OF THE SEPARATION OF POWERS DOCTRINE OF THE  
OKLAHOMA CONSTITUTION**

295. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
296. The Constitution of Oklahoma divides the State Government of Oklahoma into three branches, the executive, legislative and judicial. Article III of the Constitution states as follows:
297. The powers of the government of the State of Oklahoma shall be divided into three separate departments: The Legislative, Executive, and Judicial; and except as provided in this Constitution, the Legislative, Executive, and Judicial departments of government shall be separate and distinct, and neither shall exercise the powers properly belonging to either of the others. Okla. Const. Art. 4, § 1.
298. The Oklahoma Constitution prohibits each branch of government from exercising the powers that are given by the Constitution to a separate branch of government.
299. The Constitution of Oklahoma prohibits the Legislative Branch of government from exercising executive powers that properly belong to the Executive Branch of government.
300. The Legislative Branch has the power to write and pass laws. The Executive Branch has the sole power to carry out the provisions of the law.

301. Section 10 of HB 1804, which will be codified as 74 O.S. § 20j, violates the separation of powers because it requires the Executive Branch to negotiate and sign a “Memorandum of Understanding” with the United States Department of Justice and Department of Homeland Security. Such action is properly and solely within the discretion of the Executive Branch.

302. Section 10 mandates that the Executive Branch take the above action regardless of the resources, other duties, professional judgment and other priorities or factors that the Executive Branch would otherwise consider in discharging its duties under HB 1804 and under all other laws for which it has the responsibility to take action.

303. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates the separation of powers of the Oklahoma Constitution.

304. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

### **SIXTEENTH CLAIM FOR RELIEF**

### **VIOLATION OF THE RIGHT TO BAIL UNDER THE OKLAHOMA CONSTITUTION**

305. Plaintiffs hereby incorporate by this reference all allegations of the preceding

paragraphs of this Complaint, as if fully set forth herein.

306. Article 2, section 8 of the Oklahoma Constitution provides in relevant part that “All persons shall be bailable by sufficient sureties, except that bail may be denied for:

1. capital offenses when the proof of guilt is evident, or the presumption thereof is great;
2. violent offenses;
3. offenses where the maximum sentence may be life imprisonment or life imprisonment without parole;
4. felony offenses where the person charged with the offense has been convicted of two or more felony offenses arising out of different transactions; and
5. controlled dangerous substances offenses where the maximum sentence may be at least ten (10) years imprisonment.”

307. Section 5 of HB 1804, which will be codified as 22 O.S. § 171.2, states at subsection (C) that “[f]or purpose of determining the grant of or issuance of bond, it shall be a rebuttable presumption that a person whose citizenship status has been verified pursuant to subsection B of this section to be a foreign national who has not been lawfully admitted to the United States is at risk of flight.” Because the language of the bill references “the grant or issuance of bond” not the amount of bond, the legislature clearly intended to

deny bail to undocumented aliens.

308. Status as an undocumented alien is not among the enumerated grounds for which the Oklahoma Constitution permits denial of bail.
309. Section 5 of HB 1804 violates the right to bail under the Oklahoma Constitution.
310. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates the right to bail under the Oklahoma Constitution.
311. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

### **SEVENTEENTH CLAIM FOR RELIEF**

#### **VIOLATION OF 42 U.S.C. § 1981**

312. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
313. 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.”

314. Section 1981 prohibits discrimination under color of law on account of alienage and race.
315. The provisions of section 1981 apply to aliens, including undocumented aliens, as well as to United States citizens.
316. HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 involve intent to discriminate on the basis of alienage.
317. Section 3 of HB 1804, which will be codified as 21 O.S. § 446, will interfere with Individual Plaintiffs’ ability to make and enforce contracts with landlords and common carriers.
318. Section 4 of HB 1804, which will amend 21 O.S. § 1550.42, will discriminate against Individual Plaintiffs with regard to licenses, and deny them the full and equal benefit of laws.
319. Section 5 of HB 1804, which will be codified as 22 O.S. § 171.2, will subject undocumented aliens to disproportionate punishments and penalties, insofar as it may mandate additional incarceration up to 48 hours of a prisoner unable to verify his or her lawful status.

320. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 discriminate against Plaintiffs with regard to licenses, and deprive them of the full and equal benefit of laws.
321. The discrimination will interfere with Plaintiffs' right to make and enforce contracts, to the full and equal benefit of all laws and proceedings for the security of persons and property; and will subject them to discriminatory punishment, pains, penalties, taxes, licenses, and exactions.
322. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unlawful because they violate 42 U.S.C. § 1981.
323. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

### **EIGHTEENTH CLAIM FOR RELIEF**

#### **VIOLATION OF THE FAIR HOUSING ACT**

324. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.
325. The Fair Housing Act (FHA ), 42 U.S. C. Sections 3601 et seq., prohibits

housing practices that discriminate on the basis of race, color, religion, sex, familial status, national origin, or handicap.

326. HB 1804 states under Section 3, Subsection B that is “shall be unlawful for any person to conceal, harbor...from detection any alien in any place”.

327. HB 1804 discriminates impermissibly based upon national origin.

328. Pursuant to 42 U.S.C. Section 3604(a), it is illegal to make housing unavailable “because of race...or national origin”.

329. Plaintiffs John Doe 3, 4, 5, 6 and 7 and Jane Doe 2, 3, 4 and 5 are undocumented aliens.

330. The above-named Plaintiffs received eviction notices because of HB 1804.

331. On information and belief, Plaintiffs John Doe 3, 4, 5, 6 and 7 and Jane Doe 2, 3, 4 and 5 were suspected by their landlords of being undocumented aliens on account of their foreign national origin and/or their Latino ethnicity.

332. HB 1804 has already had, and will continue to have, a disparate impact upon foreign nationals and Latinos.

333. HB 1804 has already resulted in, and will continue to result in, discrimination on the basis of undocumented alienage.

334. Therefore, HB 1804 violates the Fair Housing Act.

335. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unlawful because it violates the Fair Housing Act.

336. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

### **NINETEENTH CLAIM FOR RELIEF**

#### **VIOLATION OF LEGITIMATE POLICE POWERS**

337. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

338. The Preamble to the Constitution of the State of Oklahoma sets forth that the people of Oklahoma ordain and establish the State's Constitution "[i]nvoking the guidance of Almighty God, in order to secure and perpetuate the blessing of liberty; to secure just and rightful government; to promote our mutual welfare and happiness . . . ." Okla. Const. Preamble.

339. HB 1804 regulates property within the jurisdiction of Oklahoma.

340. While Section 2 of HB 1804 cites "economic hardship and lawlessness in this state[,] it is HB 1804 which has already become a source of economic hardship to the State of Oklahoma. Each and every one of the Plaintiffs has

experienced economic hardship as a direct result of HB 1804. On information and belief, undocumented aliens are not responsible for a disproportionate share of crime in the State of Oklahoma.

341. The State of Oklahoma can reasonably anticipate prohibitive costs associated with implementing HB 1804.

342. HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are not necessary to secure the general safety, the public welfare, and the peace and good order of the community.

343. HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unreasonable, arbitrary, capricious and confiscatory.

344. HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 interfere with Plaintiffs' constitutionally protected rights, including but not necessarily limited to the rights to associate with whomever Plaintiffs choose, to travel, to contract, to pursue a livelihood, to work for a living, to liberty, to life, and to property.

345. HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 bear no relationship to any legitimate purpose or to the welfare of the general public.

346. HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A)

and (D), and 6-122 attempt to invoke the State's police power when the subject to which they are directed has no substantial relation to the public health, morals, or welfare.

347. Section 3 of HB 1804 potentially criminalizes such protected activities as social and political interactions, the exercise of religion and travel. In so doing, it threatens to punish persons for a matter for which by law no person ought to be punished.
348. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unlawful because they violate the legitimate police powers of the State of Oklahoma.
349. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

### **TWENTIETH CLAIM FOR RELIEF**

### **VIOLATION OF ARTICLE 2, SECTION 2 OF THE OKLAHOMA CONSTITUTION**

350. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

351. Article 2, section 2 of the Oklahoma Constitution provides that “[a]ll persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.”
352. Article 2, Section 2 of the Oklahoma Constitution refers to “persons” generally, not to “citizens” or “lawful residents.” Its protections therefore extend to undocumented aliens.
353. HB 1804 deprives or threatens to deprive all Plaintiffs of the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.
354. 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 deprives or threatens to deprive John Doe 1 and Jane Doe 1 of the inherent rights to liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.
355. Plaintiffs are entitled to a declaratory judgment that HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate Article 2, Section 2 of the Oklahoma Constitution.
356. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A),

6-115(A) and (D), and 6-122.

**TWENTY-FIRST CLAIM FOR RELIEF**  
**VIOLATION OF ARTICLE 5, SECTION 48 OF THE OKLAHOMA**  
**CONSTITUTION**

357. Plaintiffs hereby incorporate by this reference all allegations of the preceding paragraphs of this Complaint, as if fully set forth herein.

358. Article 5, Section 48 of the Oklahoma Constitution provides that, “[t]he Legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a Bureau of Immigration in this State.”

359. Section 2 of HB 1804 states that HB 1804’s purpose is “to discourage illegal immigration . . . .”

360. To this end, Section 12 of HB 1804 establishes “a Fraudulent Documents Identification (FDI) Unit for the primary purpose of investigating and apprehending persons or entities that participate in the sale or distribution of fraudulent documents used for identification purposes. The unit shall additionally specialize in fraudulent identification documents created and prepared for persons who are unlawfully residing within the State of Oklahoma.”

361. Section 12 requires that the Department of Public Safety “employ sufficient



employees to investigate and implement an FDI Unit.

362. The FDI Unit is in effect a Bureau of Immigration.

363. Section 12 requires the appropriation of public money for the FDI Unit, and therefore violates Article 5, Section 48 of the Oklahoma Constitution.

364. Plaintiffs are entitled to a declaratory judgment that HB 1804 is unconstitutional because it violates Article 5, Section 48 of the Oklahoma Constitution.

365. Plaintiffs are entitled to a preliminary and permanent injunction to enjoin the Governor and Attorney General from taking actions to enforce or implement HB 1804.

### **DEMAND FOR RELIEF**

WHEREFORE, Plaintiffs respectfully demand judgment awarding the following:

A. A declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 declaring that HB 1804 is unconstitutional because it violates the Supremacy Clause of the United States Constitution; Plaintiffs' due process and equal protection rights under the United States and Oklahoma constitutions; the Contracts Clause of the United States Constitution; Article 2, Section 15 of the Oklahoma Constitution; rights against self-incrimination under the

United States and Oklahoma constitutions ; separation of powers doctrine of the Oklahoma Constitution; right to bail under the Oklahoma Constitution; legitimate police powers under the Oklahoma Constitution; Article 2, Section 2 of the Oklahoma Constitution; and Article 5, Section 48 of the Oklahoma Constitution.

- B. A declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 declaring that 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unconstitutional because they violate Plaintiffs' due process and equal protection rights under the United States and Oklahoma constitutions; the Contracts Clause of the United States Constitution; Article 2, Section 15 of the Oklahoma Constitution; legitimate police powers pursuant to the Oklahoma Constitution; and Article 2, Section 2 of the Oklahoma Constitution.
- C. A declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 declaring that HB 1804 is unlawful pursuant to 42 U.S.C. § 1981 and §§3601 et. seq..
- D. A declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 declaring that 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122 are unlawful pursuant to 42 U.S.C. § 1981.
- E. A preliminary and permanent injunction to enjoin the Governor and

Attorney General from taking actions to enforce or implement HB 1804 and 47 O.S. §§ 6-103(A)(9), 6-106(B)(10), 6-114(A), 6-115(A) and (D), and 6-122.

- F. An award of attorney fees plus costs and interest pursuant to 42 U.S.C. § 1988.
- G. Such other relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this 31st day of October, 2007.

Counsel

for Plaintiffs,

\_\_\_\_\_/s/  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 31th day of October, 2007, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrant:

**Kevin Lynn McClure**

**M Daniel Weitman**

**Sandra D Rinehart**

/s/

Rohit Sharma \_\_\_\_\_

Rohit Sharma, Esq.