

## **ImmigrationTALK: U.S. Supreme Court examines Arizona Immigration Law**

By: Attorney Gail S. Seeram, 1-877-GAIL-LAW, [www.GailLaw.com](http://www.GailLaw.com)

On Monday, December 12, 2011, the Supreme Court announced what many supporters and opponents of Arizona SB 1070 long expected: that the Justices will themselves have the final word on the validity of the injunctions entered shortly after the immigration law was enacted last year. Technically, the question before the Justices is simply whether four of the law's provisions should be temporarily blocked pending resolution of a larger legal challenge. The Supreme Court may well provide broad guidance about what role, if any, local police and States may play in enforcing federal immigration law—which could in turn affect legal challenges to copycat laws in other states, such as Alabama, Georgia and South Carolina.

Earlier this year, the Florida legislators tried to pass an immigration bill but it did not receive the required number of votes. Since Arizona tried to criminalize illegal immigration on the State level, many immigrants left the state and the economy in Arizona has declined drastically.

### **How did the case get to the Supreme Court?**

Soon after Arizona Gov. Jan Brewer signed SB 1070 into law, the federal government filed suit alleging its provisions conflicted with, and were thus “preempted” by, federal immigration law. A district judge in Phoenix entered a temporary injunction against four of the law's provisions while permitting others to go into effect. A federal appeals court in San Francisco then upheld the injunction, causing Arizona to file a petition with the Supreme Court. The main issue is whether the States can enact their own immigration laws where federal immigration laws already exist in the areas where the States can trying to enact legislation.

### **Which provisions of SB 1070 will the Supreme Court consider?**

The Justices will evaluate the temporary injunctions against the following four provisions of SB 1070:

- Section 2(B), which requires local police officers to investigate the immigration status of any person they stop or detain whom they possess “reasonable suspicion” to believe is unlawfully present in the United States;
- Section 3, which makes it a crime under Arizona law for foreign nationals to fail to carry or apply for registration papers provided by the federal government;
- Section 5, which makes it a crime under Arizona law for immigrants to solicit, apply for, or perform work without federal employment authorization; and
- Section 6, which authorizes local police officers to arrest foreign nationals whom they have “probable cause” to believe have committed an offense making them deportable from the United States.

The Justices could vote to uphold or overturn the injunction against all, none, or some of the provisions.

### **When will the case be argued and decided?**

The Supreme Court did not set a date for oral argument, though it will likely occur in March or April 2012. Regardless of when the case is argued, the decision, as always, is likely to come by the end of June 2012.

**If Arizona wins, will states have a “green light” to enact copycat laws?**

Certainly not. At present, the Supreme Court is only considering whether the four provisions of SB 1070 should be temporarily blocked while the underlying legal challenge is resolved. In addition, the suit brought by the federal government involves a much narrower set of issues than a companion case brought by a coalition of immigrants’ rights groups. Finally, even if the Supreme Court finds the injunctions were not required against the law as written, it would not prevent future suits from challenging how the law is actually implemented.