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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 COMITE DE JORNALEROS DE
15 GLENDALE, an unincorporated
16 association; NATIONAL DAY
17 LABORER ORGANIZING
18 NETWORK, an unincorporated
19 association,

20 Plaintiffs,

21 v.

22 CITY OF GLENDALE,

23 Defendants.

24 Case No.

25 **COMPLAINT FOR INJUNCTIVE**
26 **AND DECLARATORY RELIEF**

27 42 U.S.C. § 1983 (First and Fourteenth
28 Amendment)

1 Plaintiffs allege as follows:

2 1. This civil rights action challenges a Glendale municipal code provision
3 and other Glendale police enforcement as a violation of the First and Fourteenth
4 Amendments of the United States Constitution. This court has jurisdiction over
5 this action under 28 U.S.C. §§ 1331, 1343(a), and 2201, as well as under 42 U.S.C.
6 § 1983. Under 28 U.S.C. § 1391(b), venue is proper in this district because
7 defendants reside in this district and the events giving rise to the claims occurred
8 and occur in this district.

9 PLAINTIFFS

10 2. The Comite de Jornaleros de Glendale (“Comite de Jornaleros”), or
11 Committee of Day Laborers of Glendale, is an unincorporated association
12 comprised of day laborers who seek to defend their rights and to address the
13 difficulties that they face in seeking lawful employment as day workers. The day
14 laborers who make up the Comite de Jornaleros have sought and regularly seek day
15 work in the City of Glendale. These day laborers desire to make their availability
16 for day work known through means prohibited by the municipal code provision
17 and targeted by the police enforcement challenged in this action. But for the code
18 provision and chilling police actions, these members would engage in expressive
19 activity indicating their availability for work on sidewalks and on other public areas
20 of Glendale.

21 3. The National Day Laborer Organizing Network (NDLON) is an
22 unincorporated association whose office is in Los Angeles County. NDLON is a
23 nationwide coalition of day laborers and the agencies that work with day laborers;
24 the aims of the coalition include working for the repeal or invalidation of laws that
25 restrict the right of day laborers to solicit lawful employment. NDLON serves and
26 includes day laborers who desire to make their availability for day work known in
27 the City of Glendale through means prohibited by the municipal code provision
28 challenged in this action.

1 DEFENDANTS

2 4. Defendant City of Glendale is an incorporated municipality located in
3 Los Angeles County. Glendale adopts municipal ordinances through a five-
4 member city council and enforces these ordinances through the Glendale Police
5 Department.

6 FACTUAL ALLEGATIONS

7 5. Glendale Municipal Code section 9.17.030 makes it unlawful for any
8 person, while standing in any portion of the public right-of-way, including a street,
9 roadway, sidewalk, parkway, alley, highway, and driveway, to solicit or attempt to
10 solicit, employment, business or contributions of money or other property from
11 any person traveling in a vehicle along a public right-of-way.

12 6. Glendale Municipal Code section 9.17.030 also makes it unlawful for
13 the occupant of a motor vehicle, even if parked or standing, to hire or attempt to
14 hire for employment any person or persons.

15 7. The City refuses to repeal Glendale Municipal Code section 9.17.030.
16 And, while eschewing the issuance of citations under 9.17.030, the Glendale police
17 enforce the prohibitions in that provision by issuing warnings, barring contact
18 between day laborers and employers, selectively enforcing other provisions of the
19 Glendale Municipal code against day laborers, and otherwise discouraging day
20 laborers' solicitation of work while in public rights-of-way.

21 8. Many persons, including members of plaintiffs Comite de Jornaleros
22 and NDLO, have previously obtained and desire to continue to obtain lawful
23 employment performing services such as gardening, moving, and light construction,
24 by expressing their availability for employment, while standing on a public sidewalk
25 or other public way, to persons in vehicles on the street.

26 9. Day laborers, including members of plaintiffs Comite de Jornaleros
27 and NDLO, fear expressing their availability for employment in the manner they
28 have used in the past because Glendale Municipal Code section 9.17.030 subjects

1 them to the danger of arrest, fines, and other penalties should they engage in such
2 expression. These day laborers are also harmed by the provision in Glendale
3 Municipal Code section 9.17.030 that prohibits their prospective employers from
4 receiving their communication and communicating to them in response.

5 10. Glendale Municipal Code section 9.17.030 prohibits and regulates
6 speech and other expressive activity in areas, such as public sidewalks and other
7 public areas, that are traditional public fora.

8 11. Glendale Municipal Code section 9.17.030 discriminates among
9 speech and other expressive activity on the basis of content, prohibiting and
10 prescribing criminal penalties for speech of particular content while speech of
11 different content, even if expressed in the same time, place, and manner, is not
12 proscribed or regulated.

13 12. Glendale Municipal Code section 9.17.030 also regulates lawful, non-
14 misleading commercial speech.

15 13. The City of Glendale lacks either a compelling or substantial legitimate
16 governmental interest in regulating speech and expression in the manner
17 accomplished by Glendale Municipal Code section 9.17.030 and by the police
18 actions described above.

19 14. Glendale Municipal Code section 9.17.030 is not sufficiently narrowly
20 tailored to serve any governmental interest that the city designed it to serve.

21 15. Glendale Municipal Code section 9.17.030 also fails to leave ample
22 alternative avenues of communication open for proscribed speech of the specified
23 content -- solicitation of employment, business, or contributions.

24 16. The City's refusal to repeal the ordinance, the Glendale Police
25 Department's selective enforcement of other provisions of the Glendale Municipal
26 Code against day laborers, and the excessive and aggressive police presence at

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28 public places where day laborers attempt to solicit employment, chills the First

1 Amendment rights of day laborers.

2 FIRST CLAIM

3 (42 U.S.C. § 1983 -- First and Fourteenth Amendments)

4 17. By leaving in place, enforcing, and/or threatening to enforce Glendale
5 Municipal Code section 9.17.030, defendant City of Glendale deprives plaintiffs
6 and others of rights guaranteed by the First Amendment and Fourteenth
7 Amendment of the United States Constitution. Defendant commits these
8 unconstitutional acts under color or authority of law.

9 18. Continued enforcement or threats of enforcement of Glendale
10 Municipal Code section 9.17.030 violate plaintiffs' rights and the rights of others
11 that are protected by the First and Fourteenth Amendments of the United States
12 Constitution. This provision and all acts to discourage the speech it prohibits
13 therefore should be enjoined and its previous enforcement nullified.

14 SECOND CLAIM

15 (28 U.S.C. § 2201 -- Declaratory Relief)

16 19. Plaintiffs reallege paragraphs 1-18 of this Complaint as though fully set
17 forth here.

18 20. An actual controversy exists between plaintiffs and defendant
19 regarding the constitutionality and legal enforceability of Glendale Municipal Code
20 section 9.17.030 and of acts to discourage speech the code provision prohibits.

21 21. Plaintiffs are entitled to a declaration of their rights with regard to
22 Glendale Municipal Code section 9.17.030 and of the challenged acts of
23 enforcement.

24 PRAYER FOR RELIEF

25 22. Because of the actions alleged above, plaintiffs seek judgment against
26 defendants as follows:

27 a. That defendants be enjoined in perpetuity from enforcing Glendale
28 Municipal Code section 9.17.030 or from undertaking other acts to discourage the

1 speech the code section unlawfully prohibits.

2 b. That Glendale Municipal Code section 9.17.030 and any attempts to
3 discourage the protected speech the code section unlawfully prohibits be declared
4 null and void as unconstitutional in violation of the First and Fourteenth
5 Amendments of the United States Constitution;

6 c. That any and all fines, penalties, or records of infractions of Glendale
7 Municipal Code section 9.17.030 be rescinded or removed, and restitution
8 provided;

9 d. That plaintiffs recover from defendants, under 42 U.S.C. § 1988, all of
10 plaintiffs' reasonable attorney fees, costs, and expenses of this litigation; and

11 e. That plaintiffs recover such other relief as the Court deems just and
12 proper.

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14 DATED: May 19, 2004

Respectfully submitted,

MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND

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18 By: _____
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19 Attorneys for Plaintiffs
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