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FILED

2004 JUL -2 PM 3: 52

CLERK OF DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

COMITE DE JORNALEROS DE
GLENDALE, an unincorporated
association; NATIONAL DAY
LABORER ORGANIZING
NETWORK, an unincorporated
association,

Plaintiffs,

v.

CITY OF GLENDALE,

Defendants.

Case No. CV04-3521 SJO(Ex)

**FIRST AMENDED COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

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

1 Plaintiffs allege as follows:

2 1. This civil rights action challenges a Glendale municipal code
3 provision and other Glendale police enforcement as a violation of the First and
4 Fourteenth Amendments of the United States Constitution. This court has
5 jurisdiction over this action under 28 U.S.C. §§ 1331, 1343(a), and 2201, as well
6 as under 42 U.S.C. § 1983. Under 28 U.S.C. § 1391(b), venue is proper in this
7 district because defendants reside in this district and the events giving rise to the
8 claims occurred 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
15 day work in the City of Glendale. These day laborers desire to make their
16 availability for day work known through means prohibited by the municipal code
17 provision and targeted by the police enforcement challenged in this action. But
18 for the code provision and chilling police actions, these members would engage in
19 expressive activity indicating their availability for day work in the City of
20 Glendale through means prohibited by the municipal code provision challenged in
21 this action.

22 3. The National Day Laborer Organizing Network (“NDLON”) is an
23 unincorporated association whose office is in Los Angeles County. NDLON is a
24 nationwide coalition of day laborers and the agencies that work with day laborers;
25 the aims of the coalition include working for the repeal or invalidation of laws that
26 restrict the right of day laborers to solicit lawful employment. NDLON serves and
27 includes day laborers who desire to make their availability for day work known in

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1 the City of Glendale through means prohibited by the municipal code provision
2 challenged in this action.

3 DEFENDANTS

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

8 FACTUAL ALLEGATIONS

9 5. In 1996 the City enacted Section 9.17.030 of the Glendale Municipal
10 Code making it unlawful for any person, while standing in any portion of the
11 public right-of-way, including a street, roadway, sidewalk, parkway, alley,
12 highway, and driveway, to solicit or attempt to solicit, employment, business or
13 contributions of money or other property from any person traveling in a vehicle
14 along a public right-of-way. Glendale Municipal Code section 9.17.030 also made
15 it unlawful for the occupant of a motor vehicle, even if parked or standing, to hire
16 or attempt to hire for employment any person or persons.

17 6. Although the City admitted that Glendale Municipal Code section
18 9.17.030 was constitutionally suspect, the City refused to repeal the section. And,
19 while eschewing the issuance of citations under 9.17.030, the Glendale police
20 continued to enforce the prohibitions in that provision by issuing warnings,
21 barring contact between day laborers and employers and otherwise discouraging
22 day laborers' solicitation of work while in public rights-of-way.

23 7. On June 29, 2004, the City adopted an amended section 9.17.030,
24 which is similar to the previous version of the provision. The amended Section
25 9.17.030 prohibits any person from standing "in or on any street, roadway, curb,
26 parkway, alley, highway and driveway, and solicit, or attempt to solicit,
27 employment, business or contributions of money or other property from the
28 occupant of any vehicle while that vehicle is located on any public street,

1 roadway, alley, highway or driveway and not lawfully parked within, or
2 immediately adjacent to, any Industrial or Commercial Zone within the City.”

3 8. Amended Glendale Municipal Code section 9.17.030 also provides:
4 “No person, while the occupant of any vehicle located on any public street,
5 roadway, alley highway or driveway and not lawfully parked, shall solicit, or
6 attempt to solicit, employment, business or contributions of money or other
7 property from a person who is on or within any street, roadway, curb, parkway,
8 alley or driveway within, or immediately adjacent to, any Industrial or Commercial
9 Zone within the City.”

10 9. Amended Glendale Municipal Code section 9.17.020 defines the
11 prohibited solicitation in a manner intended to reach day laborers alone, by, for
12 example, excluding from the proscription any person “using signs.”

13 10. Plaintiffs are informed and therefore believe that the City and its
14 police department will commence enforcing the amended Section 9.17.030 on or
15 about July 29, 2004 (30 days after its adoption).

16 11. Many persons, including members of plaintiffs Comite de Jornaleros
17 and NDLON, have previously obtained and desire to continue to obtain lawful
18 employment performing services such as gardening, moving, and light
19 construction, by expressing their availability for employment, while standing on a
20 public sidewalk or other public way, to persons in vehicles on the street.

21 12. Day laborers, including members of plaintiffs Comite de Jornaleros
22 and NDLON, fear expressing their availability for employment in the manner they
23 have used in the past because Glendale Municipal Code section 9.17.030 subjects
24 them to the danger of arrest, fines, and other penalties should they engage in such
25 expression. These day laborers are also harmed by the provision in Glendale
26 Municipal Code section 9.17.030 that prohibits their prospective employers from
27 receiving their communication and communicating to them in response.

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1 Amendment of the United States Constitution. Defendant commits these
2 unconstitutional acts under color or authority of law.

3 21. Continued enforcement or threats of enforcement of Glendale
4 Municipal Code section 9.17.030 violate plaintiffs' rights and the rights of others
5 that are protected by the First and Fourteenth Amendments of the United States
6 Constitution. This provision and all acts to discourage the speech it prohibits
7 therefore should be enjoined and its previous enforcement nullified.

8 **SECOND CLAIM**

9 (28 U.S.C. § 2201 -- Declaratory Relief)

10 22. Plaintiffs reallege paragraphs 1-21 of this Complaint as though fully
11 set forth here.

12 23. An actual controversy exists between plaintiffs and defendant
13 regarding the constitutionality and legal enforceability of Glendale Municipal
14 Code section 9.17.030 and of acts to discourage speech that the code provision
15 prohibits.

16 24. Plaintiffs are entitled to a declaration of their rights with regard to
17 Glendale Municipal Code section 9.17.030 and of the challenged acts of
18 enforcement.

19 **PRAYER FOR RELIEF**

20 1. Because of the actions alleged above, plaintiffs seek judgment against
21 defendants as follows:

22 a. That defendants be enjoined in perpetuity from enforcing Glendale
23 Municipal Code section 9.17.030 or from undertaking other acts to discourage the
24 speech the code section unlawfully prohibits.

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

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

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

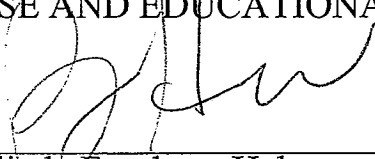
6 e. That plaintiffs recover such other relief as the Court deems just and
7 proper.

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DATED: July 2, 2004

Respectfully submitted,

MEXICAN AMERICAN LEGAL
DEFENSE AND EDUCATIONAL FUND

By: 

Belinda Escobosa Helzer

Attorneys for Plaintiffs

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over
4 the age of 18 and not a party to the within action. My business address is 634
5 South Spring Street, 11th Floor, Los Angeles, CA 90014.

6 On July 2, 2004, I served **FIRST AMENDED COMPLAINT FOR**
7 **INJUNCTIVE AND DECLARATORY RELIEF** on the parties identified
8 below by placing a true and correct copy thereof enclosed in a sealed envelope(s)
9 for collection at my place of business, following ordinary business practices
10 addressed as follows:

11 Ann M. Maurer 12 Assistant City Attorney 13 City of Glendale 14 613 E. Broadway, Room 220 15 Glendale, CA 91206-4394	
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16 **BY MAIL** - I deposited such envelope in the mail at Los Angeles,
17 California, with first class postage thereon fully prepaid. I am readily
18 familiar with the business practice for collection and processing of
19 correspondence for mailing. Under that practice, it is deposited with
20 the United States Postal Service on that same day, at Los Angeles,
21 California, in the ordinary course of business. I am aware that on
22 motion of the party served, service is presumed invalid if postage
23 cancellation date or postage meter date is more than one (1) day after
24 the date of deposit for mailing in affidavit.

25 **BY PERSONAL SERVICE** - (X) I delivered by hand, or () I
26 caused to be delivered via messenger service, such envelope to the
27 offices of the addressee(s) with delivery time prior to 5:00 p.m. on the
28 date specified above.

BY FAX - I caused the foregoing document to be served by facsimile
transmission to each interested party at the facsimile machine
telephone number shown on the attached service list.

I certify or declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

07/02/2004
Date


Lucia Silva