

**UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA**

MARIO MARTINEZ, ET AL.,)	
)	
Plaintiffs,)	Civ. Action No. 4:10-cv-3140
)	
v.)	
)	
CITY OF FREMONT, ET AL.,)	
)	
Defendants.)	
)	

**PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Pursuant to Rule 65(a) and (b) of the Federal Rules of Civil Procedure, Plaintiffs respectfully move the Court for a temporary restraining order and preliminary injunction to prohibit Defendant City of Fremont, Nebraska, from enforcing or implementing Ordinance No. 5165, the Immigration Ordinance approved by voters on June 21, 2010. The City of Fremont has stated its intention to begin enforcement of the Immigration Ordinance on July 29, 2010.

GROUND FOR APPLICATION

The Immigration Ordinance unlawfully usurps the federal government’s exclusive authority to regulate immigration by restricting residence in the City based on immigration status and mandating participation in an employment verification program that Congress has expressly left voluntary. As set forth more fully in the accompanying memorandum in support of this motion, Plaintiffs are likely to prevail on the merits of the claim, among others, that the Ordinance violates the Supremacy Clause of the U.S. Constitution, and that the Ordinance exceeds the City’s municipal authority under Nebraska law.

Unless the Ordinance is enjoined, Plaintiffs will be irreparably harmed because they will face criminal prosecution and penalties unless they comply with the unconstitutional law, as well as threatened loss of their homes or separation of family, and loss of livelihood, in addition to the burdens of compliance and other harms.

SUPPORTING DOCUMENTS

The motion is based on this Motion and the following documents: the First Amended Complaint; the Memorandum of Law in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction; the Motion of Plaintiffs Jane Doe and Maria Roe for Leave to Proceed Under Pseudonym and for Protective Order and Memorandum of Law in Support; Declaration of Sheetal Dhir Authenticating Government Records Regarding E-Verify (with Exhibits); Declaration of Charlotte Silver Authenticating Government Records Regarding Fremont Immigration Ordinance (with Exhibits); Declaration of Mario Martinez, Jr.; Declaration of Paula Mercado; Declaration of Jane Doe; Declaration of Maria Roe; Declaration of Steven Dahl; Declaration of Laurel Marsh; Declaration of Michael D. Marty; Declaration of Brandon Mehl; Declaration of Mary Conroy; Declaration of Katelan Eno (with Exhibits); Exhibit AA, *Del Rio-Mocci v. Connelly Properties*, Civil Action No. 08-2753 (WJM) (D. N.J. Apr. 8, 2009), Letter Opinion; Exhibit BB, "City torn by immigration proposal" by Leslie Reed, published June 10, 2010 in the World Herald; Exhibit CC, "City in Nebraska Torn as Immigration Vote Nears" by Monica Davey, published June 17, 2010 in the New York Times.

RELIEF SOUGHT

Because plaintiffs are likely to prevail on the merits and will be irreparably harmed, and the balance of hardships and the public interest weigh in favor of Plaintiffs, Plaintiffs satisfy the

requirements for issuance of a temporary restraining order and preliminary injunction. Plaintiffs therefore respectfully seek injunctive relief until resolution on the merits.

Dated: July 22, 2010

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* Motion for *pro hac vice* admission pending or forthcoming.