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15 UNITED STATES DISTRICT COURT
16 FOR THE DISTRICT OF ARIZONA
17 PHOENIX DIVISION

18 ARIZONA CONTRACTORS
ASSOCIATION, INC., *et al.*,

19 Plaintiffs,

20 vs.

21 CRISS CANDELARIA, *et al.*,

22 Defendants.

23

VALLE DEL SOL, INC., *et al.*,

24 Plaintiffs,

25 vs.

26 TERRY GODDARD, *et al.*,

27 Defendants.
28

Case No. CV-07-2496-PHX-NVW

**VALLE DEL SOL PLAINTIFFS'
MOTION FOR INJUNCTION
PENDING APPEAL**

**EXPEDITED CONSIDERATION
WITHOUT ORAL ARGUMENT
REQUESTED**

Case No. CV-07-2518-PHX-NVW

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1 Plaintiffs Valle del Sol, Inc., Chicanos Por La Causa, Inc., and Somos America,
2 pursuant to Rule 62(c) of the Federal Rules of Civil Procedure, hereby move the Court for
3 an injunction pending appeal to prevent the implementation or enforcement of Section 2
4 of the Legal Arizona Workers Act (Ariz. Rev. Stat. sections 23-211 through 23-214). The
5 notice of appeal was filed on February 8, 2008.

6 ARGUMENT

7 A plaintiff seeking an injunction pending appeal must show: “either a combination
8 of probable success on the merits and the possibility of irreparable injury or that serious
9 questions are raised and the balance of hardships tips sharply in his favor.” *Southeast*
10 *Alaska Conservation Council v. U.S. Army Corps of Engineers*, 472 F.3d 1097, 1100 (9th
11 Cir. 2006) (internal quotation marks omitted). This standard is met here.

12 Plaintiffs Chicanos Por La Causa, Inc., and Somos America briefed and argued
13 this issue in the prior consolidated case before the Court (Case Nos. C-07-1355-PHX-
14 NVW and C-07-1684-PHX-NVW), and the Court declined to issue an injunction pending
15 appeal by Order of December 21, 2007 (docket no. 106). Pursuant to Civil Local Rule
16 7.1(d)(2), plaintiffs incorporate by reference their Motion for Injunction Pending Appeal,
17 filed December 13, 2007 (docket no. 91); their Supplemental Brief, filed December 17,
18 2007 (docket no. 101); and their argument on the matter on December 18, 2007.
19 Plaintiffs also rely on any other relevant proceedings in the prior case.

20 Plaintiffs have also briefed in the current consolidated case a preliminary
21 injunction motion, which is the same legal standard as a motion for injunction pending
22 appeal. Plaintiffs incorporate by reference their Memorandum of Points and Authorities
23 in Support of Temporary Restraining Order and Preliminary Injunction, filed December
24 12, 2007 (docket no. 3 in Case No. 2518); their Reply Memorandum of Points and
25 Authorities, filed January 10, 2008 (docket no. 128 in Case No. 2496); and their argument
26 on January 16, 2008. Plaintiffs further incorporate by reference the entire evidentiary
27 record in this matter. Plaintiffs also rely on any other relevant proceedings in this case.
28

1 Plaintiffs note that certain documents in the evidentiary record were not in
2 evidence in time to brief them, and, because the preliminary injunction proceedings were
3 consolidated with a trial on the merits, plaintiffs did not address evidence of harm at the
4 January 16 argument. Plaintiffs rely on the entire evidentiary record in this proceeding
5 for purposes of the present motion. Plaintiffs understand from the Court's Memorandum
6 of February 7, 2008 (docket no. 177), that the Court is familiar with the expanded
7 evidentiary record and does not need further argument addressed to the law or the facts.

8 In light of the Court's Memorandum and the Court's Order of December 21, 2007,
9 denying the motion for injunction pending appeal in the prior case, plaintiffs do not
10 submit any further briefing. Plaintiffs also respectfully request that the Court rule on this
11 motion as expeditiously as possible based on the papers, without oral argument.

12 CONCLUSION

13 Plaintiffs respectfully request that the Court enjoin defendants from implementing
14 or enforcing Section 2 of the Legal Arizona Workers Act (Ariz. Rev. Stat. sections 23-
15 211 through 23-214) pending appeal.

16 Dated: February 11, 2008

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By: /s/ Jonathan Weissglass
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 11, 2008, I electronically transmitted the
3 foregoing document to the Clerk's Office using the CM/ECF System for filing and
4 transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

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