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24 **IN THE SUPERIOR COURT OF ARIZONA**

25 **IN AND FOR THE COUNTY OF MARICOPA**

26 STATE OF ARIZONA

Ex rel. Attorney General

Thomas C. Horne,

*Plaintiff,*

vs.

MARICOPA COUNTY COMMUNITY  
COLLEGE DISTRICT BOARD,

*Defendant.*

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CASE NO. 2013-009093

**CROSS-CLAIM FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

(Assigned to the Hon. Arthur Anderson)

1 ABEL BADILLO and BIBIANA  
2 VAZQUEZ,

3 *Cross-Plaintiffs,*

4 vs.

5 STATE OF ARIZONA ex rel. Attorney  
6 General Thomas C. Horne,

7 *Cross-Defendant.*

8 Cross-Plaintiffs ABEL BADILLO and BIBIANA VAZQUEZ (“Cross-Plaintiffs”) allege  
9 as follows:

10 1. This lawsuit challenges the State of Arizona’s (“Cross-Defendant” or  
11 “Arizona”) illegal efforts to reverse its own policy of allowing federal employment  
12 authorization documents (“EADs”) to establish eligibility for in-state tuition rates. Arizona is  
13 taking illegal actions to reverse its policy of allowing federal deferred action-recipients to  
14 qualify for in-state tuition rates. Arizona’s policy reversal, enforced through court action  
15 against the Maricopa County Community College District Board (“MCCCD”), is illegal under  
16 both state and federal law. Cross-Plaintiffs, deferred action-recipients, are students who  
17 presented EADs to qualify for in-state tuition rates at MCCCD schools.

18 2. This action seeks declaratory and injunctive relief for ABEL BADILLO and  
19 BIBIANA VAZQUEZ because Cross-Defendant’s acts violate state and federal law.

20 **PARTIES, JURISDICTION AND VENUE**

21 3. This Court has jurisdiction over this case under 42 U.S.C. § 1983, 42 U.S.C. §  
22 1988, the Arizona Constitution, Article 6, § 14, A.R.S. § 12-123, and A.R.S. §12-1831.

23 4. Maricopa County is the proper venue for this action under A.R.S. § 12-401 (15)  
24 and (17).

25 5. Cross-Plaintiff ABEL BADILLO resides in Maricopa County, Arizona. He was  
26 granted deferred action and an EAD under the Deferred Action for Childhood Arrivals

1 (“DACA”) program. Cross-Plaintiff BADILLO is a student at Glendale Community College  
2 and is eligible for in-state tuition rates. He is currently paying in-state tuition rates and his  
3 tuition would rise if Arizona enforced its illegal policy against MCCCCD.

4 6. Cross-Plaintiff BIBIANA VAZQUEZ resides in Maricopa County, Arizona.  
5 She was granted deferred action and an EAD under the DACA program. Cross-Plaintiff  
6 VAZQUEZ is a student at Phoenix College and is eligible for in-state tuition rates. She is  
7 currently paying in-state tuition rates and her tuition would rise if Arizona enforced its illegal  
8 policy against MCCCCD.

9 7. Cross-Defendant Arizona filed a lawsuit against MCCCCD challenging its  
10 practice of granting DACA-recipients in-state tuition rates. *See State of Arizona v. Maricopa*  
11 *County Community College District Board* Complaint CV2013-009093.

## 12 **STATEMENT OF FACTS**

13 8. On June 25, 2013, Cross-Defendant filed suit in the Maricopa County Superior  
14 Court of Arizona against MCCCCD for granting in-state tuition rates to DACA-recipients.

15 9. Cross-Defendant seeks to enjoin MCCCCD from accepting EADs as evidence of  
16 eligibility for in-state tuition rates.

17 10. Cross-Plaintiff BADILLO is an individual who is attending a Maricopa County  
18 community college. He is a deferred action and EAD-recipient under the DACA program.  
19 Cross-Plaintiff BADILLO has a property right in his in-state tuition rates granted under state  
20 law.

21 11. Cross-Plaintiff VAZQUEZ is an individual who is attending a Maricopa County  
22 community college. She is a deferred action and EAD-recipient under the DACA program.  
23 Cross-Plaintiff VAZQUEZ has a property right in her in-state tuition rates granted under state  
24 law.

25 12. Cross-Defendant’s action denies Cross-Plaintiffs in-state tuition rates based on  
26 their alienage and indicators of their alienage, including but not limited to their status as  
deferred action, EAD and DACA recipients.

1 13. Arizona’s policy denies in-state tuition rates to deferred action-recipients.

2 14. Arizona’s policy denies in-state tuition rates to EAD-recipients.

3 15. Arizona’s policy denies in-state tuition rates to DACA-recipients.

4 16. Cross-Defendant has not provided adequate procedure for intentionally  
5 depriving Cross-Plaintiffs of their right to in-state tuition rates.

6 17. Arizona’s in-state tuition laws, including but not limited to A.R.S. § 1-502,  
7 require Arizona to grant in-state tuition rates to individuals presenting an EAD.

8  
9 **FIRST CLAIM FOR RELIEF**  
10 **(Equal Protection Clause, Fourteenth Amendment**  
11 **of the U.S. Constitution; 42 U.S.C. §1983)**

11 18. Cross-Plaintiffs incorporate all preceding paragraphs as though fully set forth  
12 here.

13 19. The Fourteenth Amendment of the U.S. Constitution provides that “[n]o State  
14 shall . . . deny to any person within its jurisdiction the equal protection of the laws.”

15 20. Cross-Defendant is discriminating against Cross-Plaintiffs by taking action to  
16 deny them in-state tuition rates based on alienage.

17 21. Cross-Defendant’s action subjects Cross-Plaintiffs to differential treatment in  
18 their access to in-state tuition rates due to their alienage.

19  
20 **SECOND CLAIM FOR RELIEF**  
21 **(Due Process Clause, Fourteenth Amendment**  
22 **of the U.S. Constitution; 42 U.S.C. §1983)**

22 22. Cross-Plaintiffs incorporate all preceding paragraphs as though fully set forth  
23 here.

24 23. Cross-Plaintiffs have a property right to in-state tuition rates provided under  
25 A.R.S. § 1-502 and the Maricopa County Community College District is allowing them to pay  
26 in-state tuition rates.

1 24. Cross-Defendant has acted to deprive Cross-Plaintiffs of an interest in their  
2 property by seeking to deny Cross-Plaintiffs of in-state tuition rates without minimal procedural  
3 due process.

4 25. Cross-Defendant has failed to provide adequate procedure for depriving Cross-  
5 Plaintiffs of their right to in-state tuition rates.

6  
7 **THIRD CLAIM FOR RELIEF**  
8 **(Uniform Declaratory Judgment Act)**

9 26. Cross-Plaintiffs incorporate all preceding paragraphs as though fully set forth  
10 here.

11 27. Cross-Defendant's policy of depriving Cross-Plaintiffs from in-state tuition  
12 rates violates A.R.S. § 1-502.

13 28. Cross-Defendant's policy of depriving Cross-Plaintiffs from in-state tuition  
14 rates violates Cross-Plaintiff's Equal Protection Clause of the Fourteenth Amendment.

15 29. Cross-Defendant's policy of depriving Cross-Plaintiffs from in-state tuition  
16 rates violates Cross-Plaintiff's Due Process Clause of the Fourteenth Amendment.

17 **FOURTH CLAIM FOR RELIEF**  
18 **(Injunctive relief under A.R.S. § 12-1801)**

19 30. Cross-Plaintiffs incorporate all preceding paragraphs as though fully set forth  
20 here.

21 31. Cross-Defendant's policy of depriving Cross-Plaintiffs from in-state tuition  
22 rates violates A.R.S. § 1-502.

23 32. Cross-Defendant's policy of depriving Cross-Plaintiffs from in-state tuition  
24 rates violates Cross-Plaintiff's Equal Protection Clause of the Fourteenth Amendment.

25 33. Cross-Defendant's policy of depriving Cross-Plaintiffs from in-state tuition  
26 rates violates Cross-Plaintiff's Due Process Clause of the Fourteenth Amendment.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Cross-Plaintiffs pray for the following relief:

3 A. A declaration that Cross-Defendant cannot deny deferred action, EAD and  
4 DACA-recipients in-state tuition rates under applicable laws and that Arizona’s policy is  
5 unlawful and invalid;

6 B. Permanently enjoin the State of Arizona from enforcing its illegal policy of  
7 restricting deferred action, EAD and DACA-recipients from receiving in-state tuition rates.

8 C. An order awarding Cross-Plaintiffs costs of suit, and reasonable attorneys’ fees  
9 and expenses pursuant to A.R.S. § 35–213(C), 42 U.S.C. § 1988, and any other applicable law;

10 D. Such other and further relief as the Court deems equitable, just, and proper.

11 DATED this 9<sup>th</sup> day of April, 2014.

12 MEXICAN AMERICAN LEGAL DEFENSE  
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22 */s/ Nathan J. Fidel*

23 By: \_\_\_\_\_  
24 José de Jesús Rivera  
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26 *Attorneys for the Cross-Plaintiffs*

1 THE FOREGOING has been electronically  
2 Filed this 9<sup>th</sup> day of April, 2014.

3 COPY mailed and e-mailed this 9<sup>th</sup> day  
4 of April, 2014, to:

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