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(Bar Misc. No. 4186)

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN RE SERGIO GARCIA ON ADMISSION

APPLICATION FOR LEAVE TO FILE BRIEF *AMICI CURIAE* IN SUPPORT OF APPLICANT; BRIEF *AMICI CURIAE* OF SEVEN CALIFORNIA LAW SCHOOL DEANS IN SUPPORT OF APPLICANT

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No. S202512
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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN RE SERGIO GARCIA ON ADMISSION

APPLICATION FOR LEAVE TO FILE BRIEF *AMICI CURIAE* IN SUPPORT OF APPLICANT

Amici curiae Sandra L. Brooks, Dean, Cal Northern School of Law; Erwin Chemerinsky, Dean, University of California Irvine School of Law; Christopher Edley, Jr., Dean, University of California Berkeley School of Law; Victor Gold, Dean, Loyola Law School; Rachel Moran, Dean, University of California Los Angeles School of Law; Drucilla S. Ramey, Dean, Golden Gate University School of Law; and Frank H. Wu, Chancellor and Dean, University of California Hastings College of Law (collectively "Amici")[1] respectfully request leave pursuant to Rule 8.520(f) of the California Rules of Court to file the attached brief *amici curiae* in support of Applicant.

Amici have a strong interest in the outcome of this case. Amici serve as Deans of law schools accredited by the Committee of Bar Examiners of the State Bar of California to confer the degree of *juris doctor*. They play a critical role in

[1]Amici file this brief acting in their individual capacities and not on behalf of their respective educational institutions.

ensuring that applicants for admission to the State Bar of California (the "State Bar") meet the State Bar's standards for legal education. *See* BUS. & PROF. CODE §6060(e)(1). As a result of the part they play in certifying individuals as qualified to practice law, Amici have an interest in ensuring that applicants who have demonstrated the requisite characteristics for practicing law are not denied admission to the legal profession.

As educators and members of the profession, Amici also have an interest in ensuring that their students are not denied professional opportunities for which their academic success has prepared them. Most students who attend the law schools administered by Amici do so with the intention of entering the legal profession. Upon graduation, a significant percentage of the student body at those institutions sit for the California bar exam. Membership in the State Bar provides graduates a means to contribute to California's multicultural society as legal professionals. Accordingly, Amici have an interest in ensuring the consistent and fair application of criteria for admission to the State Bar in a way that reflects the diversity of the residents of the state.

Finally, Amici are concerned about the adverse impact on California law schools that would result from excluding all otherwise qualified undocumented persons who have successfully completed their legal education and passed the California bar examination. These adverse impacts are discussed in Part II of the proposed brief *amici curiae*.

Based on Amici's experience as leaders of law schools located in California, Amici believe they can be of assistance to the Court by illustrating: (1) the valuable contributions to the state that undocumented legal professionals could provide; (2) the importance of including representatives of all segments of California society, including undocumented immigrants, as part of the legal education experience; and

(3) factors of fairness that weigh heavily in favor of admitting a qualified candidate such as Mr. Garcia to the State Bar.

For the foregoing reasons, Amici respectfully request that the Court accept the accompanying brief for filing in this case.

DATED: July 18, 2012.

Respectfully,

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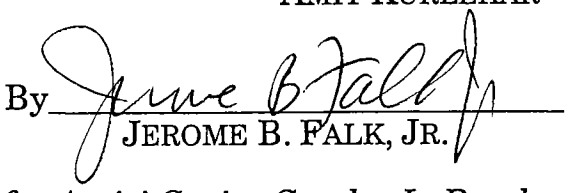
By 
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BRIEF *AMICI CURIAE*

INTRODUCTION

In its May 12, 2012 Order to Show Cause to the Committee of Bar Examiners of the State Bar of California (the "Order"), the Court invited *amicus curiae* participation to address whether the pending motion for admission of Sergio Garcia should be granted. Amici file this brief to address public policy considerations affected by Mr. Garcia's motion that are of particular concern to them as Deans of law schools located in California.[2]

Mr. Garcia's request for admission to the State Bar is in part an inspiring immigrant success story—the culmination of years of hard work and perseverance during which Mr. Garcia proved himself academically in college and law school and passed California's rigorous bar exam. Mr. Garcia's story is also a story of failure—namely, society's failure to fix a broken naturalization process that has left individuals like Mr. Garcia in legal limbo.

The decision the Court will make here will not directly affect many law school graduates as the number of undocumented persons currently enrolled or recently graduated from California law schools appears (based on the experiences of the law schools led by Amici) to be very small. But while a decision to admit Mr. Garcia to the State Bar would not open the proverbial floodgates to numerous undocumented applicants, it would have significant beneficial consequences for legal education, the legal profession and the State of California.

Granting undocumented law graduates the opportunity for full membership in the legal profession would enable those

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[2]As noted on the cover, each of the Deans joining in this brief does so in an individual capacity and not on behalf of his or her respective educational institution.

individuals to give back to society by engaging in law-related activities that only a licensed attorney may perform. Admitting Mr. Garcia to the State Bar would also encourage other individuals aspiring to reach their full potential but facing significant hurdles to persevere in the pursuit of a legal education, enriching the experience of student peers by adding a different perspective to the stimulating mix of opinion and debate that arises from a diverse student body. Conversely, excluding otherwise qualified undocumented persons from the State Bar would have unintended adverse consequences for legal education in California.

For all of these reasons, Amici believe that allowing qualified undocumented applicants to be admitted as members of the State Bar would provide substantial benefits to the educational institutions they serve as Deans, to the legal profession and to California as a whole.

ARGUMENT

I.

EXCLUSION FROM THE STATE BAR OF UNDOCUMENTED PERSONS WOULD DEPRIVE THE STATE AND ITS CITIZENS OF THE SERVICES AND CONTRIBUTIONS OF INDIVIDUALS OTHERWISE QUALIFIED TO PRACTICE LAW.

In its Order, the Court raised the question whether the issuance of a license to practice law impliedly represents that the licensee may be legally employed as an attorney. Amici do not believe any such implication arises from admission to the State Bar because a law license can be used in many ways that do not depend upon employment.

As educators of and mentors to their students, Amici try to facilitate opportunities for graduates to use their education and talents for the betterment of society. Amici have a corresponding responsibility to ensure that the investment made by students, their families, the State of California and society

as a whole in the higher education of our students pays off. Granting a qualified person authorization to practice law usually provides the most direct way for both the individual and society overall to realize the value created by that person's legal education.

Anyone who practices law in California without authorization commits a crime, whether they have received compensation for their activity or not. BUS. & PROF. CODE §6126(a). State Bar admission grants permission for a person to practice law. Eligibility for employment is determined by a completely distinct, federal statute enacted by Congress in 1986 as part of the Immigration Reform and Control Act (the "IRCA"). 8 U.S.C. §1324a. A license to practice law carries no implication that the holder of that license is entitled to accept employment by a law firm or other legal employer. *See generally* Opening Brief of the Committee of Bar Examiners of the State Bar of California 20 (filed June 18, 2012) ("Bar Examiners' Brief") (noting that a law license cannot be used as proof of eligibility for employment); *Amici Curiae* Brief of American Civil Liberties Union (filed July 18, 2012).[3]

A law license does imply, however, that an individual possesses the requisite personal moral character for membership in the legal profession. Every candidate for admission to the State Bar must submit to a moral character determination

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[3]The requirements of the IRCA are well known to employers generally and law firms in particular, and no law firm or competent employer of lawyers would accept admission to the State Bar as proof that a job applicant has a right to work. Any concern that lay consumers of legal services might mistakenly rely on admission to the State Bar would be misplaced. As explained in the next paragraph of the text above, an undocumented person who has been admitted to the State Bar and who agrees to represent a client as a solo practitioner is not "employed" by the client within the meaning of the IRCA. Accordingly, the client does not violate or abet a violation of federal law by retaining the lawyer.

based in part on that individual's record of employment and any relevant violations of the law. An applicant's immigration status would properly be considered as part of his or her moral character application. In this case, the Committee of Bar Examiners—fully aware of Mr. Garcia's undocumented status (and, presumably, the fact that he entered the United States while a minor and under the control of his parents)—determined that there was nothing about Mr. Garcia's moral character that should prevent him from being licensed and practicing as a lawyer.

Although qualified undocumented persons such as Mr. Garcia, if allowed to practice law, could not accept employment with a law firm or other employer of lawyers, nothing in the IRCA would prevent them from providing legal services to clients as sole practitioners (*see* Bar Examiners' Brief 28 and authority cited (a lawyer in private practice is engaged by a client as an independent contractor, a relationship that is not prohibited by the IRCA)) or by collaborating with others attorneys either in a formal partnership relation or by an informal office association. Solo practice is the post-graduate option undertaken each year by dozens of students from institutions administered by Amici. One hundred and ten lawyers who graduated in 2011 from the twenty California law schools accredited by the American Bar Association ("ABA") began their careers as sole practitioners. AMERICAN BAR ASSOCIATION, http://employmentsummary.abaquestionnaire.org (follow "Download Complete Employment Data" hyperlink). Solo practice is therefore not uncommon among licensees generally, and may prove especially attractive to undocumented admittees because it is a career path that is legally available to them.

Individuals such as Mr. Garcia can also devote their professional skills to work in the public interest without compensation. The United States Supreme Court has noted that "the

legal profession has a noncommercial role and duty." *Supreme Court of New Hampshire v. Piper*, 470 U.S. 274, 281 (1985). As part of that duty, lawyers are expected to engage in *pro bono* work, and public service is encouraged. *Bradshaw v. U.S. District Court*, 742 F.2d 515, 519 & n.5 (9th Cir. 1984) (citing Section 6068(h) of the Business and Professions Code, which sets forth the lawyer's duty "[n]ever to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed"). Mr. Garcia's immigration status would not prevent him from engaging in uncompensated *pro bono* work.

Such work typically is of greater significance to communities that are poor, powerless or marginalized. The approximately 2.6 million undocumented individuals who live in California are one such group. Among undocumented immigrants aged 25 to 64, nearly half have less than a high school education. KARINA FORTUNY, RANDY CAPPS & JEFFREY S. PASSEL, THE CHARACTERISTICS OF UNAUTHORIZED IMMIGRANTS IN CALIFORNIA, LOS ANGELES COUNTY AND THE UNITED STATES 14 (The Urban Institute, Mar. 2007). Almost two-fifths of children with undocumented parents live in poverty. *Id.* at viii. Undocumented immigrants have incomes that are a fraction of those of native-born citizens, and yet have larger families to support. *Id.* Undocumented individuals are primarily employed in low-skilled, low-paying jobs. *Id.* Consequently, the undocumented community is uniquely vulnerable while at the same time economically unable to afford legal representation.

If granted a license to practice law, persons such as Mr. Garcia, who are themselves members of the community of undocumented individuals, would be well situated to serve as advocates for those lacking legal status. *In re Investigation of Conduct of Examination for Admission to Practice Law*, 1 Cal. 2d 61, 68-69 (1934) (applicant's personal qualities "may well

add to the applicant's other qualifications"; when considering an individual for admission, the State Bar has historically extended its examination beyond "subjects strictly legal with an inquiry along lines of common sense and with regard to the ordinary activities of life"). As individuals who share many of the same hardships as others lacking legal status, undocumented licensees would be more likely to respond to their needs. Indeed, first-hand familiarity with the challenges and conditions facing undocumented individuals well equips Mr. Garcia to appreciate the particular circumstances of those without legal immigration status. As a member of the group who has himself overcome the disadvantages of his undocumented status, Mr. Garcia's position as a lawyer could also inspire others to emulate his example and engage in pursuits that benefit society.

Mr. Garcia's advocacy role need not be limited to the representation of clients as a solo practitioner or service on a *pro bono* basis, but could also extend to the court of public opinion. As an individual trained in the law, and its capacity to facilitate the betterment of society, it is foreseeable that Mr. Garcia and other individuals like him would take an active role authoring articles, engaging in research and writing pieces of advocacy to influence public opinion. Mr. Garcia's credibility in such discussions would be to a substantial degree a function of his credentials.

Although Mr. Garcia is now entitled to identify himself as a *juris doctor*, or "J.D.," that title represents only one aspect of his accomplishments—the fact that he attended and graduated from law school. Members of the public know that "lawyers," as opposed to "J.D.s," not only have attended law school, but also have passed a difficult admissions exam, obtained a determination of having the requisite moral character to enter the legal profession and, perhaps most importantly, received certification from this Court that they

are qualified legal professionals. Being able to use the title of "lawyer" in public life would confer a degree of added respect and confidence. Indeed, use of the title "lawyer" or "attorney" has such significance that it is a crime for unlicensed persons to hold themselves out as entitled to use those terms. BUS. & PROF. CODE §6126(a); *Crawford v. State Bar*, 54 Cal. 2d 659, 666-67 (1960). Given that Mr. Garcia has met all the prerequisites for use of these titles, he should not be precluded from representing himself to others as a member of the State Bar.

Finally, Mr. Garcia and others similarly situated could make use of a California law license to practice overseas.[4] In an increasingly globalized world, the need for legal expertise has become transnational. While it is apparently Mr. Garcia's intent to remain in California until his immigration status becomes normalized, undocumented immigrants who achieve admission to the State Bar may choose (or be compelled) to live in another jurisdiction, yet continue to practice California law, for example, by being employed by a law firm in another country to handle questions of California law. In that case, being licensed as a California attorney would enable him to use his legal skills and expertise for compensation without violating the IRCA, just as any citizen licensed in California may do.

However, if Mr. Garcia were denied admission to the State Bar, then California's unauthorized practice of law statutes would apply to him, just as they would to any other unlicensed individual. Those statutes would prohibit him from providing legal services even if he were physically outside of

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[4]Forty-two individuals graduating in 2011 from the twenty California law schools accredited by the ABA accepted employment overseas. AMERICAN BAR ASSOCIATION, http://employmentsummary.abaquestionnaire.org (follow "Download Complete Employment Data" hyperlink).

California if his practice involved contacts with California residents. *Birbrower, Montalbano, Condon & Frank, P.C. v. Superior Court*, 17 Cal. 4th 119, 128 (1998) ("one may practice law in the state . . . although not physically present here by advising a California client on California law in connection with a California legal dispute by telephone, fax, computer, or other modern technological means"); *Estate of Condon*, 65 Cal. App. 4th 1138, 1145 (1998) (out-of-state lawyer practices law "in California" when rendering legal services to a client who resides in the state or has a principal place of business in California).

In sum, the law currently provides Mr. Garcia with a number of lawful opportunities to practice law: engaging in solo practice or a partnership with other licensees, performing *pro bono* work, participating in public advocacy, or working as a California-trained legal professional overseas. Each of these activities would benefit the interests of the institutions Amici serve as Deans, and would promote the broader good of the state of California as a whole.

II.

THE EXCLUSION OF UNDOCUMENTED INDIVIDUALS FROM ADMISSION TO THE STATE BAR WOULD BE DETRIMENTAL TO THE LAW SCHOOLS AND TO THEIR MISSION TO PROVIDE STUDENTS AN EDUCATIONAL ENVIRONMENT THAT INCLUDES MEMBERS FROM A BROAD RANGE OF SOCIETY.

California regards diversity in education as an important public policy goal. The Legislature requires educational institutions beginning with elementary schools through institutions of higher education to create "[e]ducational equity not only through a diverse and representative student body and faculty but also through educational environments in which each person, regardless of race, gender, gender identity, gender expression, sexual orientation, age, disability, or eco-

nomic circumstances, has a reasonable chance to fully develop his or her potential." EDUC. CODE §66010.2(c). Over the years, the Legislature has promoted the ideals of diversity and educational equity by including an increasing array of segments of California society, including persons without lawful immigration status. *Id.* §68130.5(a)(4) (extending eligibility for in-state tuition to qualified individuals regardless of their immigration status).

Diversity and the inclusion of minority groups in educational institutions are not just ends in themselves. The entire student body is enriched when students from a variety of backgrounds enroll in and graduate from law school. "The law school, the proving ground for legal learning and practice, cannot be effective in isolation from the individuals and institutions with which the law interacts. Few students and no one who has practiced law would choose to study in an academic vacuum, removed from the interplay of ideas and the exchange of views with which the law is concerned." *Sweatt v. Painter*, 339 U.S. 629, 634 (1950).

Further, "[t]he Nation's future depends upon leaders trained through wide exposure to that robust exchange of ideas which discovers truth out of a multitude of tongues [rather] than through any kind of authoritative selection. The atmosphere of speculation, experiment and creation—so essential to the quality of higher education—is widely believed to be promoted by a diverse student body." *Regents of the Univ. of California v. Bakke*, 438 U.S. 265, 312 (1978) (Powell, J., announcing judgment of the Court) (citations and internal quotation marks omitted). Exposure to individuals with different backgrounds and experience "prepares students for an increasingly diverse workforce and society." *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003) (citation and internal quotation marks omitted).

In furtherance of California's legislative mandate to foster educational equity, and in recognition of the benefits that flow from the day-to-day interaction of individuals from different backgrounds, Amici's respective law schools have promoted diversity as a core part of their institutional mission. Similarly, the ABA *requires* accredited law schools to "provide an opportunity for its students to study in a diverse educational environment." AMERICAN BAR ASSOCIATION, Preamble to *Standards for Approval of Law Schools of the American Bar Association*, http://www.americanbar.org/groups/legal_education/resources/standards. html (follow "Preamble" hyperlink).

Undocumented immigrants form a significant segment of the population from which California law schools draw their student body. "California has more unauthorized immigrants than any other state, about 2.6 million of the nation's 11 million; they make up 7 percent of the total California population and 9 percent of the state's labor force. For decades, unauthorized immigrants have been a part of California: in many industries in the economy and in rural and urban communities." LAURA E. HILL & HANS P. JOHNSON, UNAUTHORIZED IMMIGRANTS IN CALIFORNIA 2 (Public Policy Institute of California, July 2011); *see also* JEFFREY S. PASSEL & D'VERA COHN, A PORTRAIT OF UNAUTHORIZED IMMIGRANTS IN THE UNITED STATES 2 (Pew Hispanic Center, Apr. 2009) ("unauthorized immigrants are 4% of the nation's population"). Any effort to create student populations that incorporate members from the widest spectrum of California's multicultural population should include undocumented members of society in the admissions process. For that reason, Amici have sought to ensure that their admissions policies do not discriminate against applicants on the basis of immigration status.[5]

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[5]In the experience of Amici, most law schools do not inquire about a prospective candidate's immigration status, or use characteristics that might serve as a proxy for such

(continued . . .)

Amici's efforts to create a diverse, inclusive student body would be thrown into chaos if undocumented individuals were not able to practice law. The ABA forbids ABA-accredited schools from admitting "applicants who do not appear capable of . . . being admitted to the bar." AMERICAN BAR ASSOCIATION, *Standards for Approval of Law Schools of the American Bar Association,* Standard 501(b), http://www.americanbar.org/groups/legal_education/resources/standards.html (follow "Chapter 5" hyperlink). Law schools would be faced with a choice of denying admission to candidates who appear undocumented or risking their accreditation by accepting candidates unable to prove their legal status.

As a practical matter as well, if undocumented individuals were ineligible for admission to the State Bar, law schools might well be inclined to deny them admission in the first place. Law schools cannot admit all who apply, and must make hard choices. Law schools will have to ask themselves whether they should admit—and therefore devote scarce (and costly) educational resources to the education and training of—students who may not be admitted to the State Bar.

Law schools from which undocumented persons have graduated would be adversely affected by the exclusion from the State Bar of all otherwise qualified undocumented persons by a negative impact on those schools' reported bar exam passage rate. A candidate for admission to the State Bar

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(. . . continued)
information, to filter out applicants for admission to law programs. However, oftentimes a law school is made aware that a prospective student is undocumented while discussing financial aid options with them because the programs available to undocumented students are limited. A student may only take advantage of federal post-graduate aid programs if they are a United States citizen or national, permanent resident, or otherwise qualify as "an individual in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident." 20 U.S.C. §1091(a)(5).

must complete all prerequisites for admission and take the attorney's oath within five years after taking the bar exam. RULES OF THE STATE BAR OF CALIFORNIA Rule 4.17(A). The risk that a "pass" result on the bar exam would "expire" before an applicant's status could be normalized will inevitably lead many to defer taking the exam. Students at Amici's schools are encouraged to take the bar exam as soon as possible after law school so that the knowledge they have acquired remains fresh in their minds. Undocumented graduates who defer taking the bar exam for a significant period are less likely to succeed on the exam. The resulting reduced bar exam passage rate for the graduate's alma mater would lower the institution's ranking and stature.

Exclusion of such graduates from the State Bar would have an adverse affect on law schools in other ways. Depriving undocumented individuals of the opportunity for admission to the State Bar will discourage otherwise qualified candidates from applying to law schools because they know they will not be able to enjoy all of the fruits of their labors. At the same time, law schools may be less inclined to admit undocumented candidates because the failure of such students to become lawyers will damage the school's reputation and status. Each year, law schools provide information to the ABA and the National Association for Law Placement about the number of graduates not engaged after graduation in professional activities that require a law license. Unfortunately, there is a substantial bias against schools with a low rate of graduate participation in the legal profession. Lincoln Caplan, *An Existential Crisis for Law Schools*, N.Y. TIMES, July 15, 2012, at SR10.

If undocumented but otherwise qualified law school graduates were precluded by law from admission to the State Bar, they would be discouraged from seeking a law degree even if they have a reasonable expectation that their

immigration status would be resolved so that they could be regularly employed upon graduation. A legal education requires a significant sacrifice of time, effort and money. Part of the reward for persevering for three years and working hard to complete one's studies is the expectation that at the end of process, a successful law graduate will be eligible to apply for admission to the State Bar and thereafter will be authorized to put his or her training to constructive use in the legal profession. *See* BUS. & PROF. CODE §6060(e)(1) (graduation from law school satisfies the legal education requirement for certification that an individual is eligible for admission to the State Bar). Without the prospect of such eligibility, dedicated individuals like Mr. Garcia would be unlikely to make the sacrifices necessary to attend and complete law school.

The likely result will be that fewer undocumented individuals will apply to law schools or be accepted by such institutions, and the administrations of those schools will therefore be unable to offer their students as rich a mix of classmates drawn from all elements of society. In the end, the learning experience of all will be diminished.

III.

IMMIGRATION REFORM IS LIKELY TO RESULT IN NORMALIZATION OF MR. GARCIA'S STATUS IN THE NEAR FUTURE.

Immigration status is not static. "[T]he illegal alien of today may well be the legal alien of tomorrow." *Plyler v. Doe*, 457 U.S. 202, 207 (1982) (citation and internal quotation marks omitted). Federal immigration law currently provides a variety of means by which an undocumented individual such as Mr. Garcia may obtain legal status and authorization to work in the United States. Moreover, there is every reason

to believe that federal immigration law will improve Mr. Garcia's prospects in the foreseeable future.

The political leadership of this country has recognized that the system of immigration has broken down, and both Republicans and Democrats have agreed that the immigration laws of this country must change to help people in Mr. Garcia's situation become full, productive members of American society. *See* Bar Examiners' Brief 42 (describing the Development, Relief, and Education for Alien Minors ("DREAM") Act, originally introduced in the Senate on August 1, 2001, by Sen. Orrin Hatch, Republican of Utah, and Sen. Dick Durban, Democrat of Illinois).

The Obama administration has recently followed suit, announcing an executive order allowing undocumented individuals who were brought to this country as children to remain and work. Julia Preston & John H. Cushman, Jr., *Obama to Permit Young Migrants to Remain in U.S.*, N.Y. TIMES, June 15, 2012, at A1; *see also* Bar Examiners' Brief 43.

Bipartisan recognition of the need for regularizing the work status of undocumented immigrants is reflected in the statements of Mitt Romney, the presumed Republican candidate for president. His campaign website states that the "immigration system is broken," and promises that as President, he would "speed the processing of applications by eliminating the red tape that is keeping immediate families apart"; "work with Congress to give legal permanent residents the same priority as citizens when applying to bring husbands, wives, and minor children to the United States"; and "reallocate green cards to family of citizens and legal permanent residents." MITT ROMNEY FOR PRESIDENT, http://www.mittromney.com/issues/immigration (last visited July 17, 2012). Moreover, Governor Romney has said that as President, "he would 'staple a green card' to the diplomas of immigrants who

receive advanced degrees." Ashley Parker & Trip Gabriel, *Romney Exhibits a Change in Tone on Immigration*, N.Y. TIMES, June 22, 2012, at A1. If such a policy were applied to Mr. Garcia retroactively, then he would automatically receive authorization to work in this country.

The growing political consensus makes it highly likely that leaders from both parties will find the political will to correct, if not broadly reform, the nation's immigration laws at least to the extent that it will be possible for individuals like Mr. Garcia to normalize their immigration status. Indeed, it is difficult to imagine a better representative of the class that the political branches are seeking to help than Mr. Garcia. While Mr. Garcia was still a minor, his father sponsored him for an immigrant visa by filing a petition commonly known as a Form I-130. 8 U.S.C. §1255(j) (allowing for adjustment of status to immediate family members of lawful permanent residents).[6] Once a visa becomes available, Mr. Garcia will be able to remain

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[6]Immigration law provides other ways for undocumented individuals to normalize their status without leaving the country. For example, undocumented immigrants physically present in the United States for ten years who are family members of legal residents, such as Mr. Garcia, may apply for cancellation of removal on the ground of hardship, receive work authorization while their application is pending and, if their application is granted, become lawful permanent residents. 8 U.S.C. §1229b(b). Similarly, undocumented immigrants with a well-founded fear of persecution in their home countries may apply for asylum, receive work authorization while their application is pending and, if granted asylum, adjust their status to permanent resident. *Id.* §1158. Similar provisions apply for undocumented individuals whose lives or freedom would be endangered if forced to return to their country of origin. *Id.* §1231(b)(3). In addition, undocumented nationals of a country that the Secretary of the Department of Homeland Security determines to be subject to armed conflict or natural disaster may be granted Temporary Protected Status and employment authorization. *Id.* §1254a.

permanently in the United States and accept employment—including employment in the legal profession if he is allowed admission to the State Bar.

While awaiting his visa, Mr. Garcia has channeled his energies into positive pursuits, beating the odds by graduating from college, persevering through years of law school and passing the bar exam in spite of all the disadvantages he faced as an undocumented alien. However, through no fault of his own, Mr. Garcia has been waiting seventeen years for a visa to become available.

In short, Mr. Garcia's undocumented status is not a reflection of any choice on his part; rather, it is a result of choices made by his parents while he was a minor subject to their control, as well as an immigration system that has become increasingly dysfunctional. Given the probability that Mr. Garcia will remain in the United States, be granted permanent residency, and eventually be given the right to accept employment as a lawyer, he should be allowed to obtain a license to practice the profession he has worked so hard to enter.

CONCLUSION

For the foregoing reasons, and the reasons stated in the briefs submitted by Mr. Garcia, the State Bar, and the American Civil Liberties Union, the Court should grant the motion of the Committee of Bar Examiners of the State Bar of California to admit Mr. Garcia to the State Bar.

DATED: July 18, 2012.

Respectfully,

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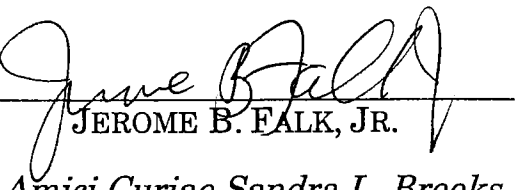
By 
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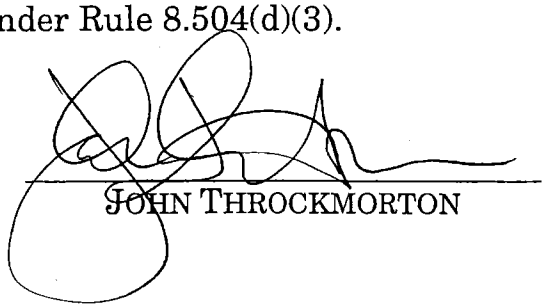
CERTIFICATE OF COMPLIANCE PURSUANT TO CAL. R. CT. 504(d)(1)

Pursuant to California Rule of Court 504(d)(1), and in reliance upon the word count feature of the software used, I certify that the attached **Brief *Amici Curiae* in Support of Applicant** contains 4,697 words, exclusive of those materials not required to be counted under Rule 8.504(d)(3).

DATED: July 18, 2012.



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PROOF OF SERVICE

I am over eighteen years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is Three Embarcadero Center, 7th Floor, San Francisco, CA 94111-4024.

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Dated: July 18, 2012

Phyllis M. Montoya

Phyllis M. Montoya