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S202512

IN THE SUPREME COURT OF CALIFORNIA

IN RE: SERGIO C. GARCIA ON ADMISSION

APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF SERGIO C. GARCIA; AND, BRIEF IN SUPPORT OF SERGIO C. GARCIA

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[1] "Counsel for amici are thankful for the valuable assistance of NYU Law students Amy Pont and Jordan Wells."

CERTIFICATE OF COMPLIANCE WITH CRC 8.520(f)(4)(A)

Amici Curiae hereby certify that no party or counsel for a party in the pending matter authored the proposed amicus brief in whole or in part or made any monetary contribution intended to fund the preparation or submission of the brief. No person or entity other than amici made a monetary contribution intended to fund the preparation or submission of this brief.

INTRODUCTION AND STATEMENT OF INTEREST OF THE AMICI CURIAE COMMUNITY LEGAL SERVICES IN EAST PALO ALTO, DOLORES STREET COMMUNITY SERVICES, EDUCATORS FOR FAIR CONSIDERATION (E4FC), AND THE BICKEL & BREWER LATINO INSTITUTE FOR HUMAN RIGHTS AT NEW YORK UNIVERSITY SCHOOL OF LAW.

I. Introduction

Pursuant to California Rules of Court, rule 8.520(f), *Community Legal Services in East Palo Alto (CLSEPA), Dolores Street Community Services (DSCS), Educators for Fair Consideration (E4FC), and the Bickel & Brewer Latino Institute for Human Rights at New York University School of Law* respectfully request leave to file the attached brief of amici curiae in support of Sergio C. Garcia in his application for admission to the State Bar of California. This application is timely made within 30 days after the filing of the opening brief on the merits.

II. STATEMENT OF INTEREST OF THE AMICI CURIAE.

Amici CLSEPA, DSCS, E4FC, and the Bickel & Brewer Latino Institute for Human Rights at New York University School of Law submit this brief in response to Question No. 5 of the Supreme Court of California, "What, if any, other concerns arise with a grant of this application?" Amici are familiar with public policy issues facing undocumented students who identify as Americans yet face barriers to completing and fully effectuating their education. Amici mentor aspiring undocumented lawyers, and work with the five declarants that have provided declarations in support of the brief. Amici shall illustrate the potential destructive consequences to these exceptional undocumented students should the State Bar deny an applicant

for admission based merely on his or her immigration status. Should the Court deny Mr. Garcia's application for admission, declarants would be denied the opportunity to fully effectuate their educational pursuits, and pushed even further into an underground economy. For these reasons, Community Legal Services in East Palo Alto, Dolores Street Community Services, Educators for Fair Consideration, and the Bickel & Brewer Latino Institute for Human Rights at New York University School of Law respectfully request that leave be granted to file the attached amici curiae brief.

Community Legal Services in East Palo Alto (CLSEPA) is a non-profit organization that provides legal assistance to low income immigrants in and around East Palo Alto, where two-thirds of the population is Latino or Pacific Islander. The immigration team provides consultations to and represents local residents as they navigate the federal government's complicated immigration processes. In an effort to teach local immigrants their rights and responsibilities, CLSEPA gives presentations at a number of venues in the area, including community health and social service agencies, immigrants' rights groups, churches, schools, women's shelters, and community events. For individual clients, CLSEPA provides pro bono and low cost legal assistance to immigrants applying for affirmative immigration benefits and to those in removal proceedings in immigration court. CLSEPA also has one full time staff attorney dedicated to educating and representing undocumented youth and young adults (those who would be Federal DREAM Act eligible) in immigration matters.

Dolores Street Community Services (DSCS) DSCS is a multi-service non-profit agency with a thirty year history of providing services to San Francisco's low income immigrant population. Advancing the interests

of immigrant community members is at the core of the work of Dolores Street Community Services. DSCS is the lead agency and fiscal sponsor of the San Francisco Immigrant Legal & Education Network (SFILEN), a collaboration of thirteen non-profit legal and education service providers deeply rooted in San Francisco's immigrant communities.

DSCS provides free immigration legal services and education to low income individuals in the Bay Area, and specializes in removal defense. DSCS attorneys regularly represent DREAM Act eligible youth in removal proceedings. DSCS disseminates information regarding immigration policies to immigrant communities in the Bay Area. DSCS offers volunteer internships to a select group of aspiring attorneys who come from immigrant backgrounds. DSCS works with the Ethnic Studies Department at San Francisco State University with Professor Jason Ferreira to recruit and mentor aspiring attorneys with immigrant backgrounds. DSCS regularly works with students seeking a career in law because of past adverse experiences with the immigration legal system.

Educators for Fair Consideration (E4FC), founded in 2006, has a mission to support undocumented students in realizing their academic and career goals and in their pursuit to actively contribute to society. E4FC offers holistic programming that addresses the financial, legal, career, and emotional health needs of undocumented students. E4FC provides scholarships, legal services, professional and personal development workshops, and a strong peer network for undocumented students. The organization also leads presentations and creates educational materials to raise awareness and support for undocumented students nationwide. E4FC's programming is designed by and for undocumented young people with support from committed allies. E4FC submits declarations of five aspiring lawyers, who

are representative of a growing population of successful undocumented students seeking to practice law and give back to their communities.

The **Bickel & Brewer Latino Institute for Human Rights at New York University School of Law** aims to affect positive change in our nation's Latino communities. The Institute brings together law students, practitioners, academics, and activists to address legal issues of concern to Latino communities. The Institute provides scholarships to incoming students who have demonstrated a commitment to community service and who are interested in a career that promotes justice for Latino communities. The Institute has an interest in ensuring that each scholarship recipient is able to practice law, regardless of immigration status. Moreover, as an academic center deeply committed to training future public interest lawyers and promoting diversity in the legal profession, the Institute has an interest in ensuring that would-be lawyers like Sergio C. Garcia are able to obtain admission to state bar associations.[2]

CONCLUSION

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

Dated: July 17, 2012

Respectfully Submitted,

Signed

Ilyce Shugall, Esq.
Francisco Ugarte, Esq.
Counsel for *Amici Curiae*

[2] In joining this brief, the Institute does not purport to convey the institutional views, if any, of New York University School of Law.

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BRIEF IN SUPPORT OF SERGIO GARCIA

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I. INTRODUCTION

On May 16, 2012, this Court issued an order to show cause to the Committee of Bar Examiners of the State Bar of California requesting briefing as to why the motion for admission of Sergio C. Garcia to the State Bar of California should be granted. The Committee of Bar Examiners and Sergio C. Garcia's briefs were due to the Court on or before June 18, 2012. In the order to show cause, the Court invited applications for permission to file amicus curiae briefs, either in support of or opposition to the motion for Mr. Garcia's admission. The instant amicus brief considers the fifth question posed by this Court in its order: "what, if any, other public policy concerns arise with a grant of this application?"

Specifically, the instant amicus curiae brief sets forth the public policy considerations from the perspective of undocumented students and young people who will be personally affected by the outcome of Mr. Garcia's case. It sets forth the contributions that undocumented students have made and continue to make in their communities and highlights the importance of continuing those contributions. The brief also explains why the admission of Sergio Garcia is consistent with current California law, which provides in state tuition for certain undocumented college students and allows them to apply for private scholarships and financial aid administered by the state.

II. STATEMENT OF FACTS

Sergio Garcia is not the only person who will be affected by the outcome of the Supreme Court's decision in the instant case. Numerous young students and aspiring lawyers, who share many of Mr. Garcia's struggles and successes, will be impacted by the Court's decision as to whether to admit Mr. Garcia to the California bar. Five brave young people have provided this Court with declarations that expose their prior or current undocumented status as well as their experiences in and hopes and dreams for this country. *See* Attachments 1-5 attached hereto.

A. Denia Perez

Denia Perez is a 22 year old undocumented college graduate and aspiring law student. [Declaration of Denia Perez, "DP Dec." at ¶¶3, 37, attached hereto as Attachment 1]. Ms. Perez entered the United States and moved to San Francisco, California as an eleven month old baby. [DP Dec. ¶4] At the age of eight, Ms. Perez moved from San Francisco, California to Santa Rosa, California. [DP Dec. ¶¶6-8]. In Santa Rosa, Ms. Perez excelled academically. [DP Dec. ¶13-24]. She became the student of the year at Santa Rosa Middle School. [DP Dec. ¶14]. At Santa Rosa High School, she earned a 4.2 Cumulative GPA. [DP Dec. ¶¶18-19]. She became the first ever Latina student body president at the school. [DP Dec. ¶20]. She was the captain of the track and cross country teams, and became involved in several other extra-curricular activities. [DP Dec. ¶19-21].

Ms. Perez attended Mills College, but due to financial difficulties, transferred to Santa Rosa Junior College. [DP Dec. ¶¶28-29]. Ms. Perez saved money and paid her way through school, earning a scholarship to attend San Francisco State University, where she graduated cum laude. [DP Dec. ¶¶32-44]. She woke up at 5 a.m. twice a week and took public transportation to school, while working during the other days of the week. [DP Dec. ¶32].

Ms. Perez has aspired to be an attorney from a young age. Her parents, also undocumented, have been fighting deportation after getting bad legal advice from a "notary advisor"—who advised them to apply for residency. [DP Dec. ¶¶9-12]. In high school, Ms. Perez represented juveniles in Teen Court, an alternative dispute resolution program for juveniles charged with misdemeanor offenses. [DP Dec. ¶¶21-23]. In college, Ms. Perez majored in Women and Gender Studies, and developed an even stronger passion to pursue a career in law. [DP Dec. ¶¶36-38]. Ms. Perez, who has lived in the United States since she was an infant, considers the United States to be her country, and seeks to give back to her community. [DP Dec. ¶¶42-46]. She does not know what she will do if she does not have the opportunity to practice law in the United States. Her Spanish is not proficient enough for her to practice in Mexico. *Id.*

B. Krsna N. Avila

Krsna Avila is a newly documented Mexican national who entered the United States illegally when he was four months old. [Declaration of Krsna N. Avila (KA Dec.) ¶ 3, attached hereto as Attachment 2]. Prior to obtaining his residency, Mr. Avila resided in the United States in an undocumented status for 23 years. [KA Dec.¶5]. Mr. Avila attended public schools in Oakland, California. [KA Dec.¶7]. After graduating high

school, he attended the University of California at Davis and obtained a bachelors degree. [KA Dec.¶ 12]. When Mr. Avila was 16 years old, his parents were placed into deportation proceedings. [KA Dec.¶8]. Although his parents ultimately obtained legal status at the end of their deportation proceedings, Mr. Avila remained undocumented. [KA Dec.¶10].

Growing up in the United States, Mr. Avila was well aware of the disadvantages he faced due to his undocumented status. [KA Dec.¶6]. While in college, Mr. Avila majored in psychology and sociology and minored in Chicano studies, in an effort to become more educated about a person's place in life. [KA Dec.¶13]. While at Davis, Mr. Avila learned about the federal DREAM Act and met other undocumented students who were also interested in the passage of the DREAM Act. [KA Dec.¶16].

After graduation, Mr. Avila sat in on an immigration law class at UC Davis and attended office hours. [KA Dec.¶17]. He felt it was important for him to understand the law. [KA Dec.¶18]. While doing so, he began to assist E4FC create a free online legal service for undocumented students. [KA Dec.¶22]. He continues to work with E4FC to educate undocumented students. [KA Dec.¶28]. He is now studying for the LSAT so that he can pursue his dream of becoming an attorney. [KA Dec.¶27].

C. Gabriela Monico

Gabriela Monico is an undocumented college student from El Salvador. [Declaration of Gabriela Monico [GM Dec.] ¶ 3-4, attached hereto as Attachment 3]. She came to the United States illegally when she was 13 years old in order to join her father who was already in the country. *Id.* Although Ms. Monico was originally placed in an English learner program when she started high school in the United States, within one

semester she transitioned into regular English classes and within a year was in honors and advance placement classes. [GM Dec. ¶9].

In the 11th and 12th grades, Ms. Monico excelled in her honors classes while participating in various extracurricular activities, including tutoring, the National Honors Society, and playing on the varsity tennis team, and running with the varsity track and field team. [GM Dec. ¶10]. In the 12th grade, she was ranked in the top 10 percent of her class and was named AP scholar with distinction by the College Board after passing more than four advance placement exams with a perfect score. [GM Dec. ¶11]. She graduated high school with a cumulative 4.2 GPA. [GM Dec. ¶12].

Ms. Monico enrolled at UC Berkeley, but during her first year, did not receive sufficient scholarship money to cover room and board and therefore commuted to school while working 30 hours a week. [GM Dec. ¶¶15-17]. Ms. Monico eventually saved enough money to move to Berkeley and later was awarded the Cal DREAM Scholarship which allowed her to afford her continued education. [GM Dec. ¶21]. Ms. Monico is involved with numerous student and community groups to help educate other undocumented students. [GM Dec. ¶¶25-27]. Her extracurricular activities re-awakened her dream of becoming an attorney. [GM Dec. ¶28]

D. Blanca Hernandez

Blanca Hernandez is a Mexican national who came to the United States on a visa when she was six years old. [Declaration of Blanca Hernandez (BH Dec.) ¶¶ 3-4, attached hereto as Attachment 4]. Ms. Hernandez understood at a very young age that her undocumented status was a disadvantage. [BH Dec. ¶10]. Growing up, Ms. Hernandez played musical instruments and was involved in dance groups. [BH Dec. ¶12];

however, she was unable to travel abroad with her dance groups due to her undocumented status. [BH Dec. ¶13]. Nevertheless, Ms. Hernandez excelled in academics until cultural issues began to affect the importance her family placed on her education. [BH Dec. ¶14]. However, Ms. Hernandez was part of a program aimed at reducing the drop out rate of Latino students and as a result, again became motivated to excel and pursue a college education. [BH Dec. ¶17].

Ms. Hernandez began her college career working and attending a junior college. [BH Dec. ¶¶21-23]. She later transferred to UC Davis where she intended to study international relations. [BH Dec. ¶25]. However, because the major required that she travel abroad, she was forced to change majors and chose Chicano studies. [BH Dec. ¶29]. Together with other students, she co-founded Scholars Promoting Education, Awareness and Knowledge (SPEAK), which provides support to undocumented students on campus. [BH Dec. ¶32]. The group advocated in support of the State and Federal DREAM Acts and supported each other through challenges that undocumented students face. [BH Dec. ¶33].

Ms. Hernandez graduated from UC Davis in 2008 and currently has an internship with E4FC where she continues to work with undocumented students around the country. [BH Dec. ¶43]. She has also been accepted into an MA program on Mexican American studies with a special focus on public policy. [BH Dec. ¶45].

E. Angel Zavalza

Angel Zavalza is a Mexican national who entered the United States at the age of seven. [Declaration of Angel Zavalza (AZ Dec.) ¶ 3, attached hereto as Attachment 5]. He has remained undocumented since that time. *Id.* He began learning English in the second grade and was committed to

doing so both to succeed in academics and in order to make friends. [AZ Dec. ¶4]. Although he initially excelled in math, language arts became his favorite class around middle school, as his English was improving. [AZ Dec. ¶5].

Throughout his education, he found numerous mentors who inspired him. [AZ Dec. ¶¶ 6-8]. He was also involved in various school clubs and organizations. [AZ Dec. ¶9]. He worked with the tutoring center and helped found the club, Latinos Unidos. [AZ Dec. ¶ 9]. After high school, he attended the University of California at Berkeley and graduated with a degree in Political Science and Political Economy. [AZ Dec. ¶10].

While in college, just as in high school, Mr. Zavalza was involved in various student and community organizations. [AZ Dec. ¶11]. Most significantly, he worked with groups focused on advancing the civil rights of immigrants, as well as other underserved communities. *Id.* He recently began working as a leader in advocating for both the Federal DREAM Act (2010) and the California DREAM Act. *Id.*

Mr. Zavalza will be attending law school at New York University in the fall of 2012. [AZ Dec. ¶1]. He hopes to become a lawyer and a policy maker in order to be a better advocate for social justice and to work for the underprivileged. [AZ Dec. ¶¶13,15]. He is also interested in practicing law, including immigration law, civil rights law, and human rights law, in order to help give back to his community. [AZ Dec. ¶¶ 16-17]. He feels that it is important to do this type of work in his community, as he understands the issues and is in the best place to advocate for the community [AZ Dec. ¶17].

III. ARGUMENT

Both the United States Supreme Court and the State of California have recognized the importance of providing educational opportunities for undocumented children that allow them to become full members of society rather than a permanent underclass. The Supreme Court made this clear in *Plyler v. Doe*, 457 U.S. 202, 216-230 (1982). The State of California reiterated the point—and made it even more forcefully—by passing the California Dream Act. Thus, it logically follows that law graduates, irrespective of immigration status, should be entitled to admission to the California bar once they meet all the necessary requirements.

A. POLICY CONSIDERATIONS WARRANT THE INCLUSION OF THESE SUCCESSFUL UNDOCUMENTED STUDENTS INTO THE BASIC FABRIC OF OUR SOCIETY.

As set forth below, public policy considerations call for this Court to accept the Committee of Bar Examiners' pending motion for the admission of Mr. Sergio Garcia to the practice of law in California.

1. The United States Supreme Court's Decision in *Plyler v. Doe* Warns Against Creating a State Policy Establishing a "Permanent Underclass" Through Denial of Education and Opportunity.

In *Plyler v. Doe*, the United States Supreme Court held that a state may not exclude undocumented immigrants from its public school system on the basis of immigration status without violating the equal protection clause of the Fourteenth Amendment. *See Plyler v. Doe*, 457 U.S. 202, 216-230 (1982); *accord LULAC v. Wilson*, 908 F. Supp. 755 (C.D. Cal. 1995) (invalidating Prop. 187 and accompanying state statutory provisions which would have required, *inter alia*, immigration checks in

public schools). Though decided in 1982, the *Plyler* Court dealt with nearly identical policy considerations which confront the Court today: millions of undocumented immigrants without a clear path to legalization, *id.* at 218, FN17, a significant number of undocumented children present in the United States, a divided Congress unable to pass comprehensive immigration reform, *id.* and the danger of creating a "permanent caste of undocumented resident aliens, encouraged by some to remain here as a source of cheap labor, but nevertheless denied the benefits that our society makes available to citizens and lawful residents." *Id.* at 218-219.

While the issue in *Plyler* did not involve post-secondary education, the Court's holding and policy discussion—made during a similarly politically charged era—is directly relevant to the issues at bar. The Court found, for example, that children of undocumented immigrants "can affect neither their parents' conduct nor their own status." *Id.* at 219 (citing *Trimble v. Gordon*, 430 U.S. 762, 770 (1977)). Punishing children for the parent's conduct "does not comport with fundamental conceptions of justice" and it is "thus difficult to conceive of a rational justification for penalizing these children for their presence within the United States." *Id.*

Second, the Court recognized that education has a "fundamental role in maintaining the fabric of our society." *Id.* at 221. The Court cited *Brown v. Board of Education*, 347 U.S. 483, 493 (1954) for the principle that education is:

> "perhaps the most important function of state and local governments. . . . It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in

> life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

Plyler, 457 U.S. 202, 221-22 (citing *Brown*, 347 U.S. at 493). Denial of educational opportunity to a large population of undocumented children would therefore "pose an affront to one of the goals of the Equal Protection Clause . . . . .[and] foreclose the means by which that group might raise the level of esteem in which it is held by the majority." *Id.* (citing *Wisconsin v. Yoder*, 406 U.S. 205, 221 (1972) ("education prepares individuals to be self-reliant and self-sufficient participants in society.").

2. Restricting These Undocumented Law Students in California From Obtaining a Law License Because of Their Immigration Status Would Be Tantamount to Establishing and Reinforcing the very "Permanent Underclass" that *Plyler* Warned Against, and Would Constitute Disastrous Public Policy.

"The existence of such an underclass [of undocumented and uneducated children] presents most difficult problems for a Nation that prides itself on adherence to principles of equality under law." *Plyler v. Doe*, 457 U.S. at 221.

Each of the five aspiring lawyers who submitted declarations to this Court through amici *Community Legal Services of East Palo Alto, Dolores Street Community Services, Educators for Fair Consideration, and The Bickel & Brewer Latino Institute for Human Rights at New York University School of Law*—Denia Perez, Gabriela Monico, Blanca Hernandez, Krsna Avila, and Angel Zavalza, are undocumented, or have lived most of their lives without immigration status. *See generally* Attachments 1-5. Each

identify as Americans. Each grew up under extremely challenging social and economic circumstances, with Spanish being the preferred language at home. Yet each mastered the English language as children while in the United States. Ms. Perez earned a 4.2 GPA in her high school and became the first ever Latina student body president. [DP Dec. ¶20]. Ms. Monico, despite entering the United States at the age of 15, reached the top 10 percent of her graduating class, and passed with a perfect score in 4 Advanced Placement tests, earning college acceptance at UCLA and UC Berkeley. [GM Dec. ¶¶10-14]. Mr. Avila excelled academically, but lived through the fear of watching his parents face possible deportation in immigration court proceedings. [KA Dec. ¶¶8-10]. Ms. Hernandez co-founded an organization while a student at UC Davis. [BH Dec. ¶32]. Each worked menial jobs to finance their education, including Ms. Perez (house cleaning), Ms. Hernandez (gas station), and Ms. Monico (office work). [DP Dec. ¶29] [BH Dec. ¶24] [GM Dec.17]. Each declarant is actively involved in their community, and has demonstrated extraordinary motivation, and academic excellence, despite being undocumented. *See* Attachments 1-5.

The Supreme Court's decision will have a very real impact for these remarkable students, along with many others who, like the declarants, identify as Americans yet without valid immigration status through no fault of their own. In fact, denying these students the ultimate step in their legal education—obtaining a law license—would be antithetical to the very bedrock principles which underlie the U.S. justice system. *Plyler,* 457 U.S. at 221-22. The students would be pushed to an underground economy, and be unjustly denied the very license they spent so much of their life working to obtain. Rather, effective policy would encourage these individuals to

continue their leadership roles, and successes, in American society. *See Nyquist v. Mauclet,* 432 U.S. 1, 12 (1977) ("And although an alien may be barred from full involvement in the political arena, he may play a role -- perhaps even a leadership role -- in other areas of import to the community.").

Indeed, recent federal policy providing work authorization to DREAM eligible students affirms the convincing force of policy arguments which favor allowing undocumented young people to pursue their dreams and fulfill their potential. *See* "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children," June 15, 2012, *available at*: http://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf. On June 15, 2012, the Secretary of Homeland Security, Janet Napolitano, issued direction to the Department of Homeland Security to provide work authorization for certain young undocumented immigrants. Under this policy, some individuals, like Ms. Perez, may be able to obtain work authorization, if they entered the United States prior to the age of 15, are not yet 30 years old, resided in the United States for a period of five years, and have a limited to no criminal record. *Id.* Making a statement in support of this policy change, President Barack Obama stated,

> This is the right thing to do for the American People. These young people are going to make extraordinary contributions and are already making contributions to our society.

See Remarks by the President on Immigration, 6/15/12, *available at* http://www.whitehouse.gov/the-press-office/2012/06/15/remarks-president-immigration.

While this is a positive development for undocumented young people, this new rule would not provide any of the declarants a clear path to permanent status. Work authorization under the policy is limited to two years. *Id.* Moreover, the policy is merely a DHS guideline, and according to its own terms, "confers no substantive right, immigration status, or pathway to citizenship." *Id.* at 3. Thus, the new guidelines will not provide a long-term solution for the declarants seeking to adjust their immigration status—and therefore, do not provide a clear pathway for admission to the State Bar.

B. GRANTING SERGIO GARCIA'S APPLICATION FOR ADMISSION INTO THE CALIFORNIA BAR WOULD BE CONSISTENT WITH THE DIRECTION IN WHICH THE CALIFORNIA LEGISLATURE HAS PROGRESSED

1. California Law Already Recognizes the Rights of Undocumented Students Pursing Higher Education

Currently there are three laws, colloquially referred to as the "California DREAM Act," which allow undocumented immigrants access to California public post-secondary institutions, as if they were in-state, lawful permanent residents. These include California Education Code Sections 68130.5, 66021.7, and 69508.5. Pursuant to *Martinez v. The Regents of the University of California*, because these laws do not, "regulate [ ] who many enter or remain in the United States," they are not preempted by federal law regulating immigration. *Martinez v. The Regents of the Univ. of California*, 50 Cal. 4th 1277, 1287 (2010) *cert. denied,* 131 S. Ct. 2961 (2011).

Cal. Educ. Code § 68130.5 (West), often referred to as Assembly Bill 540, exempts nonimmigrant aliens, who meet certain requirements, from paying nonresident tuition at California's public universities and community colleges. The requirements include, (1) high school attendance in the state for three years or more, 2) graduation from a California high school or equivalency, 3) registration or enrollment at an accredited college or university in California, and 4) an affidavit filed with the school that the student has either filed an application to legalize his/her immigration status or will do so as soon as (s)he is eligible. In essence, this law allows undocumented immigrants who would qualify for in-state tuition, but for their immigration status, to qualify despite their status.

Cal. Educ. Code § 66021.7, often referred to as Assembly Bill 130, allows Cal. Educ. Code § 68130.5 eligible students to receive scholarships derived from private sources. Cal. Educ. Code § 69508.5, often referred to as Assembly Bill 131, allows the same students to apply for student financial aid administered by the state of California.

The existence of these laws shows that the California legislature recognizes the importance of access to higher education for undocumented students. The result of this law is that undocumented students are attending and graduating from law school in the State of California. Should the Court determine that such students are unable to obtain a law license after expending the time and resources to graduate with a law degree from this State's prestigious universities, these students' efforts would be thwarted, as their degrees will be essentially rendered meaningless. Thus, the Court should follow the California legislature's lead and find that Sergio Garcia is entitled to admission to the bar.

2. THE "CALIFORNIA DREAM ACT" HAS ALREADY MADE A SIGNIFICANT IMPACT ON THE LIVES OF CALIFORNIA "DREAMERS," AND ADMITTING QUALIFIED, UNDOCUMENTED INDIVIDUALS TO THE BAR BUILDS ON EXISITING EFFORTS TO PROVIDE OPPORTUNITIES FOR UNDOCUMENTED STUDENTS.

Many students have benefitted from existing California legislation by earning undergraduate degrees at California's public universities and colleges at the in-state tuition rate and, in some cases, with private scholarships. *See* Attachments 1-5 attached hereto. A select group of these students hope to practice law in California. *Id.* The futures of these young people will likely be impacted by this Court's decision. The students and recent graduates highlighted in the declarations attached to the instant brief were all brought to the United States, through no fault of their own, by parents and family members. Despite being undocumented, these students fought for their educational opportunities as well as opportunities for their peers. Many took advantage of California's new law—and only because of this law were they able to complete their education.

Pursuant to Assembly Bill 540, Blanca Hernandez was able to attend a local community college, and obtain a bachelor's degree at the University of California, Davis. [BH Dec. ¶¶19-21, 37]. While at UC Davis, Ms. Hernandez co-founded a student community organization aimed at promoting education, and has continued to organize and advocate both in Sacramento and Washington D.C. with various political organizations. *Id.* ¶¶40-49. Ms. Hernandez plans to attend law school, and if given the opportunity to practice law, she would use the specialized knowledge she

develops to increase accessibility to the democratic system within the United States. *Id.* ¶¶63-66.

Denia Perez, too, benefitted from the passage of Assembly Bill 540, and overcame obstacles to earn her bachelor's degree from San Francisco State University. [DP Dec. ¶34]. Ms. Perez also worked with campus and non-profit organizations aimed at helping community members and has been inspired to attend law school. *Id.* ¶¶ 38-41. If permitted to practice law, she, too, plans to give back to the community that has invested so much in her. *Id.* ¶¶55-56.

Next year, Gabriela Monico will also earn her bachelor's degree at the University of California, Berkeley and plans to earn a Ph.D. to become an expert in immigration issues, before eventually enrolling in law school. [GM Dec. ¶32, 35-36]. She, too, is a leader in various campus and community organizations. *Id.* ¶¶22-27. She hopes to have the opportunity to fully integrate into the United States and to help others to fulfill their dreams. *Id.* ¶36.

Angel Zavalza earned his bachelor's degree from UC Berkeley. [AZ Dec. ¶10]. He, too, was a leader in various student and community organizations to advance the civil rights of underserved communities. *Id.* ¶ 11. Through these organizations he held press conferences, lobbied, and held demonstrations. *Id.* ¶ 11. He will begin law school at New York University this fall, and after graduation, he hopes to become a policymaker and advocate for social justice from inside the legal system. *Id.* ¶ 12.

Krsna Avila, too, was able to earn his bachelor's degree at the University of California, Davis. [KA Dec. ¶ 17]. Since graduating, he dedicated himself to learning about immigration law. He audited an immigration law course at King Hall, and worked with a team of

undocumented students and immigration attorneys to analyze immigration cases. *Id.* ¶¶17-23. After researching his own case, at risk of removal, he developed an interpretation of immigration provisions that ultimately granted him immediate lawful permanent residency. *Id.* ¶24. He is currently studying for the Law School Admission Test and plans to use his law degree to educate and help others pursue a better life. *Id.* ¶¶27, 30.

Each of these extraordinary young people is a valuable asset to the state of California. Each possesses special skills, knowledge, and a unique perspective from which to approach the practice of law. Admitting Sergio Garcia to the California Bar will allow him and others in his shoes to complete the path on which the state of California, through its "DREAM Act" legislation, put them. Only then will the state, and these individuals, reap the full benefits of the investment both have made.

C. UNDOCUMENTED ATTORNEYS WOULD PLAY A CRITICAL AND UNIQUE ROLE IN SERVING THE NEEDS OF UNDERSERVED COMMUNITIES

Undocumented students pursuing higher education, known as "DREAMers," already perform a crucial task in meeting the needs of underserved communities and will continue to do so if afforded the opportunity to practice as attorneys. The undocumented population in the United States represents a diverse spectrum of minority groups from locations across the world including Mexico (59%), Asia (11%), Central America (11%), South America (7%), the Caribbean (4%) and the Middle East (less than 2%).[3] Undocumented students are uniquely suited to understanding the challenges that minority populations living in the United

[3] Jeffrey S. Passel & D'Vera Cohn, *A Portrait of Unauthorized Immigrants in the United States* (Pew Hispanic Center 2009).

States face and to providing much-needed legal services to these underserved communities.

The legal community does not accurately reflect the demographic composition of California, let alone the United States as a whole. *See JNB Training,* California State Bar, Council on Access and Fairness, *Strategies for Eliminating Bias In the Legal Profession at p.5, available at* www.calegaladvocates.org/library/attachment.217006. The combined minority population represents 60% of the total population of California, yet merely 20% of active bar members come from underrepresented groups. *Id.* For Latinos, the number is particularly staggering—Latinos represent 37.6% of California's population, yet merely 4.2% of active bar members. *Id.* Allowing undocumented students to serve as legal practitioners would help reduce the disparity between the legal needs of underserved, primarily minority, communities and the supply of minority attorneys available to meet those needs.[4]

1. Undocumented Students' Demonstrated and Continuous Record of Giving Back to Their Communities Portends Future Valuable Contributions

From a young age many DREAMers have positively impacted their communities. Beginning in middle school and high school respectively, Angel Zavalza and Gabriela Monico both tutored students in subjects such as mathematics and English. [AZ Dec. ¶9], [GM Dec. ¶10]. Many DREAMers continued to remain engaged with their communities, even while working jobs and travelling several hours each day to reach their

[4] U.S. Census Bureau, *Overview of Race and Hispanic Origin: 2010* 4 (2011), *available at* http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf.

colleges. For instance, Gabriela Monico continually commits to community work through numerous organizations, including Rising Immigrant Scholars, Education to People Organized to Win Employment Rights (POWER) and Filipino Advocates for Justice (FAJ). [GM Dec. ¶ 25].

Undocumented students are not only active participants in community service but also serve as community leaders. Angel Zalvaza helped form *Latinos Unidos* (Latinos United), a group aimed at assisting undocumented students in their transition from high school to higher education. [AZ Dec. ¶¶9-11]. He organized conferences and coalitions to advocate for the Federal DREAM Act (2010) and the California DREAM Act. Denia Perez, inspired by her parents falling victim to predatory notary advisors, pushed to advance herself and her community. [DP Dec. ¶¶10-14]. She eventually was elected the first ever Latina student body president of her high school. *Id.* Blanca Hernandez co-founded Scholars Promoting Education, Awareness and Knowledge (SPEAK), an organization aimed at supporting undocumented students at her college's campus. [BH Dec. ¶32].

If past community involvement is any indicator of future community involvement, then a wonderful set of leaders will emerge from the undocumented legal community. Many undocumented students have committed a great deal of time and effort to support those in their communities and they have pledged to do so upon graduation from law school. Angel Zavalza is preparing to attend New York University Law School and plans not only to be a substantial contributor to immigration reform but also a leader and drafter of legislation. [AZ Dec.¶¶1,16-17] Blanca Hernandez plans to advance her community through legal practice as well. [BH Dec.¶¶63-67]. The overwhelming commitment of undocumented students to their communities is reflective of what current

minority attorneys are already doing; minority attorneys are more heavily represented at public interest organizations and the government than at private law firms.[5] This fact clearly shows the importance attorneys from communities in need place on giving back. The dedication shown by undocumented students to meeting the needs of underserved communities will aid those communities tremendously, helping to rectify the lack of legal representation in their neighborhoods.

2. Diversity in Law School Carries Significant Benefits Yet Minority Enrollment Does Not Reflect U.S. Demographics

Diversity in law school is critical because law schools remain a major training platform for the nation's leaders. As the Court held in the landmark affirmative action case involving the University of Michigan Law School's admissions policies, "because universities, and in particular, law schools, represent the training ground for a large number of the Nation's leaders . . . the path to leadership must be visibly open to talented and qualified individuals of every race and ethnicity." *Grutter v. Bollinger*, 539 U.S. 306, 308, (2003). Diversity in law schools also prepares both minority and non-minority students for the workplace by allowing them to understand and function in a multicultural society. Diversity in law schools benefits all law students by providing them with "wide exposure to the ideas and mores of students as diverse as this Nation of many peoples." *Regents of the Univ. of Cal. v. Bakke,* 438 U.S. 265, 313 (1978).

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[5] Nat'l Ass'n for Law Placement, *Representation of Attorneys of Color at Law Firms Today* (2002), *available at* http://www.nalp.org/2002janattorneysofcolor.

Additionally, a group of 65 Leading American Businesses, as *Amici Curiae* in *Grutter v. Bollinger*, remarked that without diversity, their workforce would not be equipped with the tools and skills to prevail in a globalized business environment. *See* Brief for 65 Leading American Businesses as Amici Curiae Supporting Respondents, *Gratz v. Bollinger*, 539 U.S. 306 (2003) (Nos. 02-241, 02-516) ("Because our population is diverse, and because of the increasingly global reach of American business, the skills and training needed to succeed in business today demand exposure to widely diverse people, cultures, ideas and viewpoints.").

Despite the myriad benefits of attracting a diverse law school community, enrollment of minority students in law schools is not reflective of the general population. According to the 2010 U.S. Census, minorities make up 36.3% of the population of the U.S. yet comprise only 24.5% of the law school population. U.S. Census Bureau, *Overview of Race and Hispanic Origin: 2010* 4 (2011), *available at* http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf; American Bar Association, *First Year J.D. and Total J.D. Minority Enrollment for 1971-2010* 1 (2012) (among ABA-Approved law schools), *available at* http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/jd_enrollment_1yr_total_minority.pdf. Additionally, between 1993 and 2008 the attendance of African-American and Mexican-Americans in law schools dropped from 7.9% and 1.6% respectively to 7.3% and 1.4%. This was true even though law schools added 3,000 seats during that same time period. Tamar Lewin, *Law School Admissions Lag Among Minorities*, N.Y. Times, (Jan. 6, 2010), http://www.nytimes.com/2010/01/07/education/07law.html?scp=16&sq=legal%20diversity&st=cse.

In California, there is a disproportionately low number of minority attorneys as compared to the general population. *See JNB Training,* California State Bar, Council on Access and Fairness, *Strategies for Eliminating Bias In the Legal Profession at p.5, available at* www.calegaladvocates.org/library/attachment.217006. Furthermore, the rate of current minority enrollment in law school is not sufficient to significantly reduce the ever-widening gap between demand for legal services by minority attorneys and the limited number of attorneys from minority communities. *See* American Bar Association Presidential Advisory Council on Diversity in the Profession, *Recommendation* (2006).[6]

Qualified undocumented students like Mr. Garcia, Ms. Hernandez, and Mr. Zalvaza contribute substantially to diversity in law schools. If this Court were to deny Mr. Garcia admission to the State Bar of California, its ruling would effectively eviscerate a critical segment of qualified applicants, as undocumented applicants, knowing that they would not be authorized to practice, would likely stop applying to and attending law school. This would simultaneously deprive law schools of needed diversity, underserved communities of capable advocates, and the students themselves of the ability to pursue their dreams of serving their communities.

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[6] *Available at* www.americanbar.org%2Fcontent%2Fdam%2Faba%2Fmigrated%2Fleadership%2F2006%2Fannual%2Fdailyjournal%2Fhundredthriteen.doc&ei=0CH-T_6MJZOxqAGuv_3VDw&usg=AFQjCNF9kHikg3eAgT_FMYIcTLiSx3hDag&sig2=wtBcKam0bFA0wzeF69jv-A.

3. Diversity in the Legal Community is Critical to Democratic Engagement

Increased diversity in the legal profession advances many civic and economic goals, including: democratic engagement, keeping up with changing demographics and business promotion.[7] For democratic engagement specifically, lawyers and judges are the guardians of an inclusive political system that ensures involvement of all citizens. Additionally, diversity in the judicial system fosters trust in government and law generally.[8] Changing demographics in the U.S. also demonstrate a need for corresponding change in the composition of the legal community. Minority attorneys are especially well-positioned to serve and promote the rights of the growing minority population, given their linguistic and cultural similarities with these communities.

Admitting undocumented attorneys to practice law would promote all of the rationales for diversity in the legal field. The racial composition of the undocumented population reflects the demographic diversity of the U.S. population. In terms of democratic engagement, undocumented lawyers would have much to contribute to the national dialogue regarding the numerous challenges facing minority communities. Raquel Aldana et. al., *Raising the Bar: Law Schools and Legal Institutions Leading to Educate Undocumented Students*, 44 Ariz. St. L.J. 5, 9 (2012). Scores of DREAMers have already been active as key catalysts in the DREAM movement and the successful passage of the California DREAM

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[7] American Bar Association Presidential Diversity Initiative Commission on Diversity, *Diversity in the Legal Profession The Next Steps: Report and Recommendations* 5 (2010).

[8] *Id.*

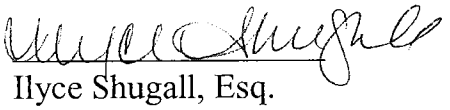
Act. None are better positioned to serve underrepresented communities than those who have spent their lives coping with the particular needs and challenges of such communities. However, such individuals will be unable to serve their communities as attorneys if this Court declines to admit Sergio Garcia to the California bar.

IV. CONCLUSION

For all the above mentioned reasons, Amici requests that this Court grant Sergio Garcia's application for admission to the California bar. Public policy supports such a decision.

Dated: July 18, 2012

Respectfully submitted,



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Counsel for *Amici Curiae*

CERTIFICATE OF WORD COUNT

Pursuant to Rule 8.204(c)(1), California Rules of Court, the undersigned hereby certifies that this **AMICI CURIAE BRIEF IN SUPPORT OF SERGIO C. GARCIA'S APPLICATION FOR ADMISSION TO THE STATE BAR OF CALIFORNIA** contains 7,170 words, excluding the attachments and this certificate, according to the word count generated by the computer program used to produce this document

Dated: July 18, 2012

Respectfully Submitted,

Ilyce Shugall, Esq.
Francisco M. Ugarte, Esq.

IN RE: SERGIO C. GARCIA ON ADMISSION

BRIEF OF AMICI CURIAE IN SUPPORT OF SERGIO C. GARCIA

LIST OF ATTACHMENTS

1. Declaration of Denia Perez
2. Declaration of Krsna N. Avila
3. Declaration of Gabriela Monico
4. Declaration of Blanca Hernandez
5. Declaration of Angel Zavalza

Declaration of Denia Perez

I, Denia Perez, hereby declare as follows:

1. My name is Denia Perez. I am a resident of California. I make this declaration based on my personal knowledge.

2. I make this declaration in support of Sergio Garcia's application to become a member of the California State Bar Association.

3. I was born in Mexico City on December 29th, 1989. I came to the United States in November 1990.

4. My parents brought me to the United States when I was merely 11 months old.

5. My parents left Mexico because they could not find suitable work to pay bills, buy food, and afford a place to live.

6. Because my mom had family in the States, my parents made the difficult decision to leave Mexico in search of a better life with our family in San Francisco.

7. We lived in San Francisco until I was eight years old.

8. We moved to Santa Rosa in 1998 because the company my parents worked for opened up a new facility there.

9. It was during my childhood in Santa Rosa that my parents decided to petition for legal residency. Unfortunately, my parents fell victim to a predatory notary "advisor" who, in exchange for a large sum of money, guaranteed them residency within a few years of applying.

10. Although I was only eight, I understood that my parents had been cheated and that because of their faith in this corrupt man, they would soon be facing deportation.

11. Fortunately, my younger brothers were born in the US and would enable my parents to petition for cancellation of removal. However, their case has been drawn out for years and my parents are still fighting for the right to remain in the US.

12. It was due to my early exposure to immigration law that I became intrigued by and interested in pursuing a career as an attorney.

13. In middle school, I was placed in the advanced courses and it was during this time that I was able to learn more about the history and politics of the United States.

14. With the encouragement and support of my teachers and friends, I soon became one of the top students at Santa Rosa Middle School and was chosen by the faculty and staff as the student of the year.

15. While my academic achievements made me a top contender for this award, it was my community service and extra curricular activities that set me apart from the rest of my peers and enabled me to win this award.

16. As an eighth grader who was not only enrolled in the honors level courses and succeeding, but also active in the student government organization and volunteering at a local senior living facility, I came to be respected by my peers and teachers alike.

17. My junior high experience set the precedent for my high school and college career.

18. At Santa Rosa High School, I continued to take honors, AP, and junior college level courses.

19. I graduated with a cumulative 4.2 GPA and was voted junior class president and associated student body president my senior year. I also became captain of my cross country and track teams. I also played soccer for a travelling team.

20. I learned that in the 200 years that my high school had existed, I was the first ever Latina associated student body president.

21. Outside of school I participated in an alternative juvenile justice program called Teen Court in Santa Rosa, California. Teen Court is an alternative court program for teens who admitted to committing misdemeanor offenses but elected to go through an alternative dispute resolution process.

22. As a teen attorney, I represented teens in proceedings to determine the appropriate length of community service for their offense. It was during my time as a teen attorney that I was able to gain real courtroom experience and knowledge about the criminal justice system.

23. After getting a taste of what it felt like to represent clients before an honorable judge, I decided that a career in law was going to be the right professional fit for me.

24. I was enamored and intrigued with the ways that the law could be interpreted and used to either liberate or oppress a certain group of people.

25. Given that my parents had been taken advantage of because of their lack of knowledge of the law, I wanted to devote my time to the study of law so that I could one day help guide people into making the best decisions.

26. I grew up with this sense of responsibility and carried it with me into my college career.

27. Although it took me two years to finally declare a major and land at the institution where my passion and curiosity for the law would be solidified, I did it.

28. I began my undergraduate studies at Mills College in Oakland, California. I loved the school, but because of financial difficulties, I had to move back home. I attended Santa Rosa Junior College for a year, saved money, and applied for scholarships.

29. Luckily, I was able to work odd jobs like cleaning houses and taking care of children in order to save money for my tuition and books.

30. In addition to this work, I was granted a private scholarship from a bay area non-profit called Educators for Fair Consideration (E4FC) that enabled me to transfer to San Francisco State University and finish the work I had started at Mills College.

31. While I could not afford to move to the city, I was able to pay my tuition and attend school by commuting twice a week from Santa Rosa to San Francisco via public transit.

32. I would wake up twice a week at five in the morning in order to take the bus and be on time for my nine a.m. class. I was able to consolidate all five of my classes into two days so that I would only have to commute twice a week and then have the rest of the week to work as a caretaker.

33. Although I had limited free time, I made use of it by getting involved with a campus organization called the Eyes on Arizona Collective and by working with E4FC's legal services team.

34. My work with the Eyes On Arizona Collective reawakened my passion for social justice and only strengthened my desire to become an attorney.

35. My participation on E4FC's legal services team gave me further insight and awareness about the complexity, absurdity, and brokenness of the immigration laws and policies of the United States.

36. These extra-curricular activities, along with the curriculum I was exposed to in my major (Women and Gender Studies), shaped and fine-tuned my childhood dream of attending law school and becoming a lawyer.

37. The critical lens that I developed through my studies and life experiences facilitated my understanding of the immigration system. I am now deeply committed to pursuing a career in law.

38. While I have been equipped with the knowledge, life experience, and burning passion to pursue a career in law, unfortunately, there exist barriers for me to practice.

39. Because the federal DREAM Act has failed to pass, I am still undocumented and living a life of uncertainty.

40. I do not know what my future holds, but I am working hard to operate within the various constraints this society has placed on me. I continue to work giving back to my community while simultaneously doing what I need to do to eventually get to law school.

41. By participating in rallies in support of immigration reform and the DREAM Act, I am working to bring awareness to the issue and change the hearts and minds of my fellow Americans.

42. Although I do not have the papers to prove it, I am American; I was raised in this country and have come to call it home.

43. I have become better versed in the English language than in Spanish because my entire schooling was conducted in English. Although I speak Spanish, I would not be eligible for a college level job in Spanish because my verbal and written skills are not up to par with those standards.

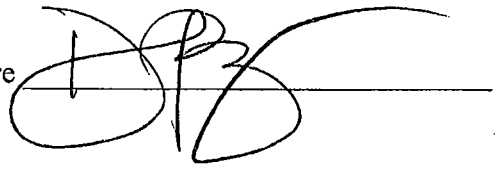
44. I graduated with an American degree and honors in this country. I am more familiar with US history, politics, law, and customs than I am with Mexican ones.

45. This country has raised me and it is because of this that I want to give back.

46. Without the opportunity to be fully integrated into US society and given the chance to fulfill my potential as an aspiring attorney, I would be at a loss as to how to fully incorporate myself into my country—the United States of America.

I certify under the penalty of perjury that I read and understood the contents of this declaration before signing it, and that the foregoing is true and correct to the best of my knowledge and belief.

Executed in San Francisco, California on JULY 10, 2012.

Name: Denia Perez Signature 

Declaration of Krsna N. Avila

I, Krsna Avila, hereby declare as follows:

1. My name is Krsna N. Avila. I am a resident of California. I make this declaration based on my personal experience and knowledge.
2. I make this declaration in support of Sergio Garcia's application to become a member of the California State Bar Association.
3. I was born in Mexico on December 12, 1987 and came to the United States when I was only four months old.
4. My brother was born in the United States and was declared a US Citizen at birth.
5. Seven months ago, after 23 years of being undocumented, I was granted my lawful permanent residency.
6. Growing up, I quickly adapted to the customs and culture of the United States and learned English at a young age.
7. I went through the Oakland Public School K-12 educational system, where I became highly aware of my disadvantage of obtaining a higher education due to my unlawful status.
8. In 2003, at age 16, my parents were placed in removal (deportation) proceedings.
9. Luckily, my parents were granted lawful permanent residency through a form of relief known as 'Cancellation of Removal'.
10. I remained undocumented.
11. Nevertheless, I truly believed that there is no inherent difference between people and that academic achievement could be earned, regardless of immigration status.
12. As an undergraduate at the University of California, Davis, I became intrigued with the idea that a person is shaped by his/her surroundings.
13. I majored in Psychology and Sociology with a minor in Chicano Studies, as a way to understand the totality of a person's placement in life.
14. I wanted to learn exactly how immigration law was applied and affecting my well-being.
15. I learned about the federal DREAM Act, a bill that would create a path for undocumented students to gain lawful permanent residency in the US.
16. Towards the end of my undergraduate degree, I found a community of undocumented students who were also trying to understand their situation, achieve their educational and career ambitions, and actively fight for the passage of the federal DREAM Act.
17. When I graduated in 2010, I sat in on an immigration law course at the University of California, Davis Law School.

18. Although it was not a requirement, I attended every single class and went to every office hour opportunity.
19. My goal was not only to learn the provisions of immigration law, but also to understand how they affected my community and me.
20. I became passionate about the law and its effects on the psychology and life-outcomes of individuals.
21. Specifically, I wanted to know what portions of immigration law could be used to help this community to gain lawful status.
22. At the same time that I was gaining knowledge and getting connected to legal experts and attorneys, I helped Educators for Fair Consideration (E4FC), a non-profit organization, develop a free online legal service for undocumented students.
23. A team consisting of undocumented students and immigration attorneys was created to help analyze individual immigration cases and ultimately provide preliminary analyses of immigration remedies to undocumented students, nationwide.
24. After much research, contemplation, and risk of being placed in removal proceedings, I decided to present an interpretation of an immigration provision that would allow me to be granted immediate lawful permanent residency.
25. Seven months ago, I received a letter with the header, "Welcome to the United States", letting me know that my lawful permanent residency was granted.
26. I found an inherent passion and desire to pursue a law degree.
27. I am studying to take the LSAT to go on to law school and become an attorney.
28. Through E4FC's legal services, we have helped educate over 600 students regarding their immigration remedies.
29. I truly believe that an education in law is crucial to the liberation and understanding of oneself.
30. I plan to use my law degree to educate and aid others to benefit them in the betterment of life.

I certify under the penalty of perjury that I read and understood the contents of this declaration before signing it, and that the foregoing is true and correct to the best of my knowledge and belief.

Executed in San Francisco, California on July 12, 2012.

Name: Krsna Avila Signature

Declaration of Gabriela Monico

I, Gabriela Monico, hereby declare as follows:

1. My name is Gabriela Monico. I am a resident of California. I write this declaration based on my personal knowledge.

2. I write this declaration in support of Sergio Garcia's application to become a member of the California State Bar Association.

3. I was born in San Salvador, El Salvador. I came to the United States in November 2005 on a tourist visa.

4. My father immigrated to the United States in 2003, when I was 13 years old. He helped me leave El Salvador two years later to reunite with him.

5. My father left El Salvador because he could not earn enough money to support me and my brother.

6. Because my father has family in the States, he made the difficult decision to leave El Salvador in search of a better life with his half-brother in Azusa, California.

7. We lived in Azusa until I was seventeen years old.

8. I attended Azusa High School from 10th to 12th grade. I was placed in a program for English Language Learners (ELL).

9. In spite of the language barrier and living in poverty (my father and I lived in a trailer, sometimes without enough money to eat), I transitioned into regular English classes in one semester and into the Honors/Advanced Placement Program in a year.

10. In 11th and 12th grades I not only excelled in honors and AP courses but also at being active in extracurricular activities which included tutoring middle school English language learners, being a member of Azusa City Library's Teen Advisory Council and the National Honors Society, and playing in the Varsity Tennis and Track and Field Teams.

11. During 12th grade I was already ranked in the top 10 of my graduating class, that year I was also named AP Scholar with Distinction by the College Board after passing more than four AP tests with a perfect score, including the AP US History Test.

12. I graduated from high school with a cumulative 4.2 GPA and earned acceptances to top colleges such as UC Berkeley and UCLA.

13. My father was unable to help me pay for college expenses given that he only earned $10,000 per year, but I didn't give up my dream of going to college and decided to attend UC Berkeley.

14. I applied for several scholarships hoping that they would cover my college expenses.

15. I got enough scholarship money to pay for tuition my first year but not for room and board so I was forced to commute three hours, five days per week from a friend's apartment in Davis to Berkeley and vice versa.

16. I would wake up at five in the morning from Monday to Friday in order to take two buses and be on time for my ten a.m. class.

17. In order to make ends meet, I worked at an office thirty hours a week while completing my first year at Berkeley as a full time student.

18. During my second year I was able to move from Davis to West Oakland but was once chased by a man during my evening commute.

19. Out of fear, I decided to save enough money to move to Berkeley during the second semester of my second year in college.

20. I started running out of scholarship funds my second year in college; I had accrued a $7,000 tuition debt and my registration was blocked, which meant I could not register for classes or check books out of the library.

21. Luckily, by the end of the school year, I was awarded the Cal Dream Scholarship, which allowed me to go to school the following years.

22. Circumstances pushed me to become a leader, after facing extreme financial hardship and being looked down upon because of my immigrant background. I became aware of the problems my community faces and felt the urgent need to act and stand up for what I believe in: justice.

23. Although I had limited free time, I made use of it by getting involved with a campus organization called Rising Immigrant Scholars through Education.

24. My work with Rising Immigrant Scholars through Education helped me become aware and passionate about immigrant rights and social justice issues.

25. I also became heavily involved in community work through organizations such as People Organized to Win Employment Rights (POWER), Filipino Advocates for Justice (FAJ), and UC Berkeley's Multicultural Community Center.

26. In addition, I co-taught a creative writing class at UC Berkeley for undocumented students and will be assisting a professor with a class on undocumented immigration in the Spring of 2013.

27. A year ago, I became a member of the Educator for Fair Consideration's (E4FC) Legal Case Analysis Team, which gave me knowledge about the US immigration system.

28. The extra-curricular activities above, along with the curriculum I was exposed to in my major (Ethnic Studies) and minor (Education), re-awakened my childhood dream of becoming an immigration lawyer.

29. While I have been equipped with the knowledge, lived experience, and passion to pursue a career in law, unfortunately, I fear I lack the proper legal status to one day practice it.

30. Because the federal DREAM Act has failed to pass, I am still undocumented.

31. In spite of what the future has in store, I continue to work with my community while simultaneously doing what I need to do to eventually get to law school.

32. I am currently going into my last year of college and will be graduating with Departmental Honors.

33. In spite of working multiple jobs and holding several leadership positions, I have made it to the Dean's Honors list for the past two years and will be able to graduate with a 3.7 GPA.

34. Next fall I will be applying to PhD programs in order to become an immigration expert in the future.

35. I hope to attend law school upon completing my PhD program.

36. I want to have the opportunity to be fully integrated into this nation so that I can help others fulfill their dreams.

37. If I were forced to move back to El Salvador, I would be in danger given that gang violence has escalated dramatically over the past years.

38. I will graduate with an American degree and honors in this country, it would certainly be a waste for the US to send me to El Salvador.

I certify under the penalty of perjury that I read and understood the contents of this declaration before signing it, and that the foregoing is true and correct to the best of my knowledge and belief.

Executed in Berkeley, California on July 3rd, 2012.

Name: Gabriela Monico

Signed: Gabriela Monico

Declaration of Blanca Hernandez

I, Blanca Hernandez, hereby declare as follows:

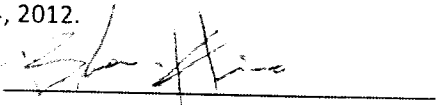
1. My name is Blanca Hernandez. I am a resident of California. I make this declaration based on my personal knowledge.
2. I make this declaration in support of Sergio Garcia's application to become a member of the California State Bar Association.
3. I was born in Toluca, Mexico on April 28, 1983. I came to the United States on October 30, 1989 on a tourist visa.
4. I came with my family at the age of six.
5. My parents decided to leave Mexico due to the lack of economic opportunity. My father's wage was never enough to own a home and it was no longer enough to feed, clothe and educate his three children.
6. We arrived to the city of Richmond, California and resided there for seven years. This was the longest time I had lived in one place.
7. In 1996, my father's sibling, who was a U.S. citizen, filed a petition on his behalf.
8. My mother, siblings, and me were derivatives on this petition.
9. Because the notario who helped my father was never available, none of us ever knew how long the petition would be pending.
10. Although I was still very young, I understood that my unlawful status had detrimental effects for me.
11. However, my mother always made sure that our immigration status never became an impediment to our well-being as children.
12. I was always very fond of the arts and played every instrument that crossed my path and joined every dance team possible.
13. Although these opportunities were always open to me, I knew there were limitations. I could not tour with my dance group outside of the country and there were certain scholarships I was not eligible for.
14. Academically, I was always in good standing. I was usually part of the honor roll, until my parent's cultural background began to influence their actions.
15. They started paying attention to the educational success of my male siblings and ignored my own needs.
16. Beginning in middle school and throughout high school, this took a toll on me and on my grades. I began to believe that perhaps becoming educated was not necessary and not possible due to my immigration status.
17. Fortunately, throughout this time I was part of a program called METAS that aimed to reduce the number of Latino high school dropouts. I was again motivated to succeed academically and pursue a higher education.
18. The main reason I decided to pursue a college education was because I became tired of others telling me that I could not attend due to my immigration status.
19. I refused to believe and I decided to find a way to enroll in the local community college.
20. The year was 2001 and the in state tuition law, known as Assembly Bill 540, recently had passed in the state of California but was pending to go into effect.
21. Because of my pending immigration petition, I was allowed to enroll in school as a California resident, but without access to financial aid.
22. After my first semester, I had to find a job if I wanted to continue my education.

23. A year later, after finding a job and doing enough research on possible areas of study, I was able to return to school with the desire to study International Relations (IR).
24. For the next three years I attended school full time and worked at a local gas station to fund my education.
25. In 2006 I was finally eligible to transfer to a 4-year university. I decided to attend the University of California, Davis because they had a well-known International Relations program.
26. That year I received my AA degree in Liberal Arts and a Certification of Completion in Italian.
27. I was awarded two scholarships that would help me pay for the first year at UC Davis.
28. Unfortunately, that same year the IR department required their students to study abroad.
29. Because of my immigration status, I could not fulfill this requirement. I decided to continue with another major, Chicana/o Studies.
30. This major gave me the opportunity to learn about various areas such as health, economics, politics, history, psychology and art, among other things.
31. During my time at Davis I also became involved with the undocumented student movement, which at that time was not highly recognized.
32. I, along with a group of students, co-founded Scholars Promoting Education, Awareness and Knowledge (SPEAK), an organization aimed at supporting undocumented students on campus.
33. Together we learned to navigate the legislative system and became our own advocates in support of the state Dream Act and federal DREAM Act.
34. We held press conferences, held fundraisers and created workshops for the general community.
35. We also became each other's emotional support.
36. I became resilient and told myself that I would never give up my hopes and dreams.
37. I received my BA in 2008, this time with the full support of both my parents.
38. My ambition to pursue a legal education became stronger. I wanted to learn more and keep going with my education.
39. Because of the legal challenges my family has faced, I made it a duty to understand the legal system.
40. Upon graduation I had the opportunity to continue organizing in support of undocumented students and co-founded another organization made up of college graduates.
41. This new organization gave me the opportunity not only to continue advocating in Sacramento, but also in DC.
42. I helped organize a now annual bike-a-thon known as Tour de Dreams, which is aimed at giving students the opportunity to make a trip from Los Angeles to Berkeley as a way to fundraise for their college tuition by form of sponsorship.
43. Additionally, I have had many opportunities to experience the area of immigration law, but the most notable has been the internship I've been a part of since 2010 at Educators for Fair Consideration (E4FC).
44. With E4FC I have had the opportunity to become trained in immigration law and help many students around the country understand their immigration remedies.
45. E4FC has also reassured me that I want to continue pursuing my education and although I don't have the money to pursue a law degree, I have applied and have been accepted into an MA program in Mexican American Studies with a special focus in public policy.
46. Public policy became of interest to me after I worked on a project around the ballot initiative system and how that system could be used to benefit as well as harm sectors of any population.
47. I had the opportunity to travel the state and meet many people who had never heard of the ballot initiative system, mostly because they were not fluent English speakers and therefore felt left out of this democratic process.

48. At the conclusion of my tour, the team I was working with and I decided that the process of the ballot initiative system should be inclusive of all eligible voters.
49. The California Senate is currently debating whether or not to approve a bill that would translate the title and summary of all initiative petitions in Spanish. It passed the Assembly.
50. This year, I will have been living in the United States for 23 years and although I have received many opportunities, there is still much more I'd like to experience.
51. The immigration petition that was filed by my father's U.S. Citizen sibling is no longer valid.
52. My eldest sibling became a US Citizen five years ago and was able to file a petition for my parents.
53. My parents became lawful permanent residents.
54. Unfortunately, due to my age, I was not able to benefit from that petition.
55. I remain undocumented.
56. Although I cannot immigrate through the petition filed by my father's sibling, because it was filed prior to May 1st, 2001, I could regularize my status if an employer were able and willing to file a petition on my behalf. All I need is the opportunity.
57. My family and I have become part of this country.
58. My mother became a citizen just two weeks ago.
59. Given the difference in societal structures between the U.S. and Mexico, it would be difficult to adapt if I ever went back.
60. If I were to leave the U.S. today, I would not be able to see my parents for the next ten years because that is how long I would be barred from re-entering this country.
61. My entire career goals and what I desired to achieve with them would vanish as my motivation to continue my education is the betterment of my community in the U.S.
62. I have come across many people who have been lied to and taken advantage of due to their immigration status.
63. I plan to continue making all areas of the democratic system within the U.S. open and accessible to everyone, regardless of status.
64. I may have been born Mexican, but I have been raised American by everyone who has surrounded me throughout the years.
65. I have so much passion and interest in advancing not only myself but my community.
66. I am certain that in the near future I will be attending law school and would like to be given the opportunity to practice law. This country has already invested so much in me.
67. I simply want to return the favor.

I certify under the penalty of perjury that I read and understood the contents of this declaration before signing it, and that the foregoing is true and correct to the best of my knowledge and belief.

Executed in Richmond, California on July 4, 2012.

Name: Blanca Hernandez Signature 

DECLARATION OF ANGEL ZAVALZA

I, Angel Zavalza, hereby declare as follows:

1. My name is Angel Zavalza. I was accepted for admission at New York University School of Law. I make this declaration based on my personal knowledge.

2. I write this declaration in support of Sergio Garcia's application to become a member of the California State Bar Association.

3. I was born in Mexico. I came to the United States at the age of seven. I am currently undocumented in the United States. I am a student that currently meets the criteria outlined in the California law AB540, and now also AB130 and AB131.

4. I learned English while attending the second grade. When I arrived in the United States, the school year had already begun-- this was around February-- so I was told that in order to advance to the next grade I would have to learn the language. I studied rigorously, both at school and at home, with the hope that I could not only advance to the next grade and continue my education, but so that I could also overcome the language barrier that prevented me from making friends. Given my efforts and my young age, I was able to espouse the language to a satisfactory level by the end of the second grade. However, it wasn't until the fourth grade that I was proficient enough to move beyond ESL (English as Second Language) classes. At my current juncture, I'm proficient in English, and in many ways, I'm more comfortable with writing and reading in English than in Spanish.

5. Growing up, my favorite classes in grade school were math, and as the years progressed I became increasingly fond of language arts. Since I can recall, I always liked math because I could excel in my class despite my initial language shortcomings. My interest in language arts developed around middle school; around the same time when English became easier for me to navigate.

6. During grade school I had two mentors that truly instilled in me a passion for learning. In the third grade, my strict math teacher, Mr. Jimenez, generated in me the work ethic that I would require later on in my schooling. He not only gave me more homework than most of his high school counterparts, but he also set the standard quite high for what, according to him, constituted excellent academic performance.

7. In the eighth grade, my language arts teacher, Mr. Perez, was the first to both appreciate my writing and also help me develop my own unique voice as a writer. I recall that he told me to stay after class one day, and said that he truly enjoyed an essay I had written in class and that I should consider taking creative writing.

For the entire eighth grade, I would, in addition to my homework, write short-stories that he would evaluate. He was the first teacher to ever grant me confidence in a subject besides math.

8. After grade school, I encountered even more mentors that were instrumental in my academic achievements. In Community College, for example, my Sociology professor, Rich Wood, pushed me to apply to UC Berkeley-- a school that I thought was out of my reach, given my legal status. If it weren't for Rich Wood, I probably would have never applied, and thus would never have attended such a prestigious institution.

9. Throughout the years, I was involved in various clubs and organizations at my schools. During Middle School I helped at the tutoring center. I mostly helped younger students with their math homework, but also assisted those who were just learning English. During high school, I helped found the club, Latinos Unidos-- a club that assisted undocumented students with navigating the transition from high school to higher education.

10. I will be attending NYU Law School for the fall semester. I earned my Bachelor's Degree in Political Science and Political Economy from UC Berkeley.

11. While in college, like in high school, I was involved in various student based organizations. I participated with numerous student and community organizations that worked to advance the civil rights of immigrants, as well as other underserved communities. As of recently, I was a leader in advocating for both the Federal DREAM Act (2010) and the California DREAM Act. Working with the Northern California DREAM Network, I helped coordinate efforts across numerous college campuses via phone conference calls and regional summits. We organized conferences to spread awareness about the DREAM Act; we also held press conferences, lobby days in Sacramento, as well as mass rallies.

12. I would like to become an attorney and a policymaker. I believe these careers would allow me to become a better advocate for social justice. I feel that I have advocated for underserved communities for years, but I have always remained outside the law. I would like to be at the center of these decisions, and pursue these goals with progressive legislation that I can directly influence, if not draft. This career would help me put into practice all those abstract theories I have learned in school about addressing poverty and social inequity.

13. I believe that as an attorney, working on policy, I could help lift my community from the shadows that we currently reside in; allowing us to become more productive citizens, and thus enabling us to contribute even more to the economic, social, and political life of this nation, and in a more open and legal way. In the end, I think this would increase diversity across the nation, and by uplifting those most in-need, create economic development from the bottom up.

way. In the end, I think this would increase diversity across the nation, and by uplifting those most in-need, create economic development from the bottom up.

14. I am thankful for the education I have received in this country. My education in the United States meant that I was, to a certain extent, able to remain sheltered from the daily hardships and constant threats that came with being an undocumented immigrant. Even though I also worked in menial occupations in order to finance my education, I was able to escape reality, even if only temporarily, by attending classes and engaging with an array of worldly issues, as an equal to all my peers. It was this seeming equality with my student peers that led me to dream beyond the limits set on me by my legal status. Indeed, my education enabled me to fully develop as a conscientious human being, with informed opinions and a will to participate in civic life. I'm convinced that without my education I never could have achieved my full potential as a person.

15. I decided that I wanted to pursue my education as far as I could. I decided to go to law school so that I could play a more central and direct role in promoting and drafting public policy that seeks to eliminate the unjust obstacles the underprivileged often face. For so many years I have been an advocate for social justice, namely because these issues affect my community in tangible ways. But I came to realize that a disconnect continued to exist between the needs of my community and the priorities of those with decision making authority. I want to bridge this gap by enrolling in and completing law school, so that I can become a policymaker that addresses these shortcomings.

16. In addition to policy work, I am interested in various areas of law. I hope to practice immigration law; for this is something that has always been of interest to me, especially since this facet of the law has been one that has always affected my community-- though negatively-- and in many ways is my main motivator for pursuing law school. Besides this, I have, as of recently, gained interest in civil rights law, labor law, and international law-- in particular human rights law. In my opinion, the issues affecting my community range beyond immigration law, and hence I would like to take a more interdisciplinary approach to my legal education.

17. I think my career goals will help my immigrant community because through me, the community would have an advocate within institutions of power; someone that intrinsically understands their issues because I am also an immigrant. I feel that I'm rooted in my community, and that I know the issues better than anyone that might have studied them from the pages in a book.

I, Angel Zavalza, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. Executed this 14 day of July, 2012 in the State of California.

Angel Zavalza
Declarant

CERTIFICATE OF SERVICE

I, Francisco Ugarte, declare as follows:

I am employed in the County of San Francisco, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 938 Valencia St, San Francisco, California 94110, in said County and State. On July 18, 2012, I served the following document(s):

- **APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIF IN SUPPORT OF SERGIO C. GARCIA;**
- **BRIEF IN SUPPORT OF SERGIO C. GARCIA;AND**
- **ATTACHMENTS**

On the parties listed below, by placing a true copy thereof in an envelope addressed as shown below by the following means of service:

- **FISHKIN & SLATTER LLP**
  JEROME FISHKIN
  1575 TREAT BLVD., SUITE 215
  WALNUT CREEK, CA 94598
  ATTORNEYS FOR SERGIO GARCIA

- **STATE BAR OF CALIFORNIA**
  OFFICE OF GENERAL COUNSEL
  STARR BABCOCK, SBN 63473
  180 HOWARD STREET
  SAN FRANCISCO, CA 94105

- **GIBSON, DUNN &CRUTCHER LLP**
  ROBERT E. PALMER, SBN 116892
  3161MICHELSON DRIVE
  IRVINE, CA 92612-4412

- **MINAMI TAMAKI LLP**
  DONALD K. TAMAKI, SBN 72884
  360 POST STREET, 8TH FLOOR
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(C'TD ON NEXT PAGE)

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- **BILL ONG HING, SBN 61513**
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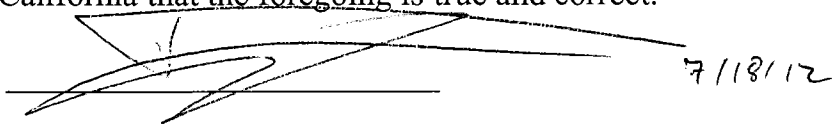
- **BRYAN SPRINGMEYER, SBN 272597**
  275 BATTERY STREET, SUITE 1170
  SAN FRANCISCO, CA 94111

☑ **BY MAIL**: I placed a true copy in a sealed envelope addressed as indicated above, on the above mentioned date, and deposited with the U.S. Postal Service on the same day. I am familiar with DSCS's practice of mailing and collection of correspondence. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

☑ **(STATE)** I am employed at Dolores Street Community Services, and the foregoing document(s) was(were) printed on recycled paper.

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