

THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

PEDRO LOZANO, et al, Plaintiffs	:	
	:	
vs	:	#06-CV-1586
	:	
CITY OF HAZLETON, et al, Defendants	:	

VOLUME 1

BEFORE: HONORABLE JAMES M. MUNLEY
UNITED STATES DISTRICT JUDGE

PLACE: SCRANTON, PENNSYLVANIA

PROCEEDINGS: NON-JURY TRIAL

DATE: MONDAY, MARCH 12, 2007

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1 MR. WALCZAK: May it please the Court, vic walczak
2 for the American Civil Liberties for Pennsylvania. I'm not
3 going to introduce all of my co-counsel, Your Honor, because
4 it would cut into too much of my time.

5 THE COURT: I have them all written down.

6 MR. WALCZAK: Let me just say the ACLU of
7 Pennsylvania is pleased to have joining it in this case the
8 Puerto Rican Legal Defense and Education Fund; the Community
9 Justice Project; the superb lawyers from the Philadelphia law
10 firm of Cozen and O'Conner, private lawyers David Vaida and
11 George Barron; as well as my colleagues from the national
12 ACLU Immigrants' Rights Project.

13 This is an important case. It is important simply
14 by being the first. Hazleton is the first municipality in
15 the country to pass an ordinance to force the eviction of
16 illegal immigrants from their homes and jobs. This is the
17 first such case to go to trial.

18 But while only the constitutionality of Hazleton's
19 ordinances are at issue, this case is being watched
20 nationwide, and the effect of this Court's decision is
21 certain to be much broader.

22 Hazleton and its opportunistic mayor, Louis
23 Barletta, have helped spawn many similar ordinances, not just

24 in Pennsylvania, but across the country. The Mayor has been
25 on the airwaves from 60 Minutes, to NPR, to repeated

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1 appearances on CNN, and he has made the rounds on the
2 Republican fund-raising circuit urging other cities and towns
3 to follow his lead.

4 He has appeared at rallies in Washington D.C. and
5 elsewhere on behalf of anti-immigration policy advocates who
6 are strongly backing the Mayor in this litigation.

7 Hazleton ordinances and the others it has spawned
8 are sold as an attempt to address the failure of Congress to
9 enact comprehensive immigration reform.

10 The Defendant does not dispute the Federal
11 Government's power to address the problem to raid employers,
12 to investigate, to provide law enforcement resources, to
13 conduct deportation hearings or to pass appropriate laws.

14 They simply assert that because the Federal
15 Government has failed to enact laws to their liking, that
16 small towns like Hazleton must and legally can fill the void
17 with their own laws.

18 Now, many communities have responded to the Mayor's
19 entreaties by passing similar laws. To date, there has been
20 six lawsuits filed challenging similar laws across the
21 country. Hazleton is one of the six. All six have either
22 resulted in an injunction, as we have in this case, or a
23 settlement order enjoining enforcement, and many more
24 communities are watching closely these proceedings, having
25 indicated that they want to see first what happens in this

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1 trial with Hazleton's ordinance before deciding whether to
2 move forward.

3 I think, Your Honor, it is safe to say this is an
4 important case. Immigration is a hot and important topic in
5 the country today, and why not? We are a nation of
6 immigrants.

7 As President Franklin Delano Roosevelt said, "All
8 of our people, all over the country, except the pure-blooded
9 Indians, are immigrants or decedents of immigrants,
10 including even those who came over here on the Mayflower."

11 Debates about immigration policy, and especially
12 about restricting new immigrants, have raged throughout our
13 history. The Chinese, Japanese, the Irish, the Jews, the
14 Italians, the Slavs, the Vietnamese, Laotians, the
15 Cambodians, and the Merolito Cubans, and particularly
16 recently Hispanic and Latino immigrants, have been the focus
17 of controversy and attempts to exclude them.

18 As we begin this trial, there are many emotional
19 and important policy legislative discussions going on across
20 the country. Should we put up a fence or a wall on the
21 Mexican border? Should we spend more money on border patrol
22 agents? Should we legislate a path to legalization, perhaps
23 a guest worker program? Should we pursue more aggressive
24 workplace enforcement? Is such enforcement fair? Does such
25 enforcement fit in with our national economic interests and

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1 with our foreign policy obligations under NAFTA and other
2 international agreements? They are all interesting and
3 important issues that serve as a backdrop for this case.

4 The people of Hazleton and Mayor Barletta have
5 every right to weigh in on the debate, but they cannot pass
6 laws answering the questions. Immigration is inextricably
7 intertwined with foreign policy and national commerce and,
8 for that reason, laws regarding immigration can and must be
9 passed only by Congress to ensure consistent and coherent
10 treatment.

11 Fortunately, for Your Honor, these important and
12 interesting policy questions are not issues for this Court to
13 resolve. The only issues in this case are whether Hazleton's
14 ordinances violate the United States Constitution and the
15 laws of the Commonwealth of Pennsylvania.

16 Specifically, do Hazleton's ordinances usurp the
17 Federal Government's role to decide and manage immigration
18 law and policy? Is Hazleton stripping employees of their
19 jobs and tenants of their homes and correspondingly employers
20 of their employees and landlords of their tenants without
21 adequate procedural due process protections? Do Hazleton's
22 ordinances promote discrimination, violating equal protection
23 and Fair Housing Act guarantees? Do Hazleton's ordinances
24 request personal information violating privacy rights? Do
25 Hazleton's ordinances conflict with state employment and

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1 landlord tenant laws and state limitations on municipal
2 powers?

3 I would like to spend a few minutes talking about
4 the upcoming trial. The story of what is happening in
5 Hazleton will be told through three categories of witnesses.
6 Plaintiffs and immigrants living and working in Hazleton,
7 Hazleton city officials, notably Mayor Louis Barletta, and

8 expert witnesses for both sides, dueling experts, if you
9 will.

10 The story of what is happening in Hazleton differs
11 greatly upon who is telling the story. I am reminded of
12 Charles Dickens' classic, A Tale of Two Cities. The parties
13 may as well be talking about two very different cities. What
14 is going on in this case is really two tales of this city.
15 The City's tale is told primarily through chief storyteller
16 Louis Barletta. This is the story, Defendant's story: Since
17 he took office in 2000, the City has been overrun by illegal
18 immigrants who have dramatically increased the crime rate,
19 drained scarce revenues and destroyed Hazleton's quality of
20 life.

21 The Court will hear about the tragic murder in May
22 2006 of a young man, Derrick Kichline, who was killed
23 allegedly by four illegal immigrants. I say allegedly
24 because the case is still pending in the common pleas court.

25 Your Honor will hear how this homicide cost the

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1 city thousands of dollars in police overtime. You will hear
2 Mayor Barletta claim that illegal immigrants are committing
3 crimes on Hazleton's citizens at extremely high and
4 unprecedented rates. You will hear that illegal immigrants
5 are bankrupting and ruining the quality of Hazleton area
6 public schools, that illegal immigrants are straining local
7 hospitals and creating long emergency room waits, and that
8 illegal immigrants are burdening Hazleton's public services.

9 The City will attempt to bolster this tale of woe
10 with expert witness testimony. The experts will testify that
11 illegal immigrants are a huge drain on America's economy and

12 are straining state and local services. Three things to note
13 about the Defendant's experts. These experts will not be
14 testifying about the burdens on Hazleton specifically. The
15 evidence of the actual burdens on Hazleton are sorely
16 lacking.

17 The experts tend to look at the costs and not the
18 benefits of the undocumented population. They ignore studies
19 that consider both, most of which show that on balance
20 undocumented immigrants are a net plus for the nation's
21 economy, and most of the experts are closely associated with
22 and, in one case, even employed by an organization sponsoring
23 this litigation.

24 In sum, the City's and the Mayor's tale is that
25 illegal immigrants are the cause of all that ails Hazleton,

10

1 and because the Federal Government is not doing its job to
2 keep out the illegal aliens, Hazleton is forced to tackle the
3 job itself. That's one tale, the City's tale.

4 The Plaintiffs' tale is a very different one. An
5 observer would reasonably think that we're talking about two
6 different cities. The Plaintiffs' tale is told through a
7 combination of testimony from the Plaintiffs, City officials
8 and expert witnesses.

9 Plaintiffs' tale goes like this: In 2000, when
10 Mayor Barletta was first elected to office, Hazleton was a
11 city of 22,000 people, and that number for years had been
12 declining. The City also was in economic decline. When the
13 Mayor came into office, he inherited a budget deficit of
14 between 500 and \$700,000. Over the following five-plus
15 years, Hazleton's population swelled to between 30 and

16 33,000. Most of the newcomers were Latinos and Hispanics
17 coming from the New York City area.

18 As the witnesses will testify, there was hardly a
19 handful of Latino families living in Hazleton in the early
20 '90s, but by the summer of 2006, there were, by Mayor
21 Barletta's own estimate, 8 or 9,000 Latinos in the community.

22 The Court will hear from several Plaintiffs,
23 including Jose and Rosa Lechuga and Pedro Lozano. They came
24 to this country by different circumstances and different
25 routes. The Lechugas from the Dominican Republic.

11

1 Mr. Lozano from Columbia.

2 During their time here, they have established roots
3 in the community, sent children to our public schools where
4 they learn English, purchased property, opened businesses and
5 paid taxes. They have worked hard and lived clean. In
6 short, they have become productive members of the community.
7 They came to Hazleton for the reasons that so many people
8 move to small towns, they thought it was more beautiful, more
9 livable than a large city, and a place where they could
10 afford a better life.

11 The influx of Latinos like the Plaintiffs helped to
12 revitalize the City. A report by the joint urban studies
13 center, which is comprised of several local colleges and
14 universities, issued a report in the summer of 2006 after
15 gathering evidence for the preceding year. The report notes
16 that, quote, compared with Wilkes-Barre and Scranton,
17 Hazleton's Hispanic businesses developed more noticeably.
18 The report notes that Scranton's Mayor hopes to duplicate
19 Hazleton's success. The report also states that, and I

20 quote, Hazleton Mayor, Louis Barletta, is happy with the
21 influx of new Hispanic residents, because of their progress
22 in opening downtown businesses occupying previously
23 unoccupied places. The report also notes that, quote, the
24 Hazleton area has experienced a pronounced boom in its
25 housing market as a result of its increasing Hispanic

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1 population. As a result, property values have increased.
2 This is the report issued in July of 2006.

3 Until May of 2006, Hazleton embraced its immigrant
4 past and celebrated its most recent immigrant wave of Latino
5 and Hispanic migrants to help restore a decaying City.

6 In April of 2006, a newspaper article in the
7 Hazleton Standard Speaker celebrated the City's 150th
8 anniversary that heralded the City's immigrant past and its
9 current resurgence thanks to the newly arriving immigrants.

10 The article attributes to Mayor Barletta the
11 statement that the arrival of immigrants coincides with a
12 construction boom. In this lengthy article issued in April
13 of 2006, there is not one word about illegal immigrants or
14 any harm that they may be causing to the City. This article
15 was for many months, until just recently, posted on the
16 City's internet home page.

17 But in the space of just one short month everything
18 changed. In May 2006, Mayor Barletta began to blame all of
19 Hazleton's problems on illegal immigrants. He especially
20 emphasized allegations that four allegedly illegal immigrants
21 shot and killed Derrick Kichline.

22 Mayor Barletta and a friend went on the internet,
23 and the only law, local law, that they could find attempting

24 to address illegal immigration is one from San Bernardino,
25 California. The Mayor copied it word for word and introduced

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1 it to the City Council. San Bernardino's ordinance never
2 went into effect, so Hazleton's became the first.

3 But the Mayor not only introduced that first
4 ordinance, 2006-10, which is no longer before the Court, he
5 testified in Congress. He began appearing on TV and radio
6 talk shows, being quoted in the newspapers, and speaking to
7 various groups to promote the ordinance.

8 The introduction of the ordinance made Mayor
9 Barletta an overnight sensation, a national media celebrity.
10 The Mayor has remained on the national stage to this day, but
11 more importantly in this tale, Plaintiffs' tale, the effect
12 of the Mayor's rhetoric and the debate engendered by the
13 introduction of the ordinance has not been without
14 consequence.

15 Latinos, including the Plaintiffs, no longer felt
16 safe in Hazleton. Their businesses failed, and they started
17 moving out. One Plaintiff, Dr. Agapito Lopez, who very
18 publically opposed the ordinances, got notes under his door
19 after he spoke publically. He then received other hateful
20 and racist letters saying Latinos should go back to their own
21 countries. The Lechugas will testify how suddenly police
22 cars were routinely parked in front of their restaurant and
23 how business dried up, and Pedro Lozano will talk about how
24 his tenants left and he was unable to find new ones after the
25 registration ordinance was passed.

14

1 Under this tale, the City has been transformed, but
2 not by illegal immigrants, but by the passage of Hazleton's
3 ordinances and the Mayor's rhetoric surrounding the debate.

4 When we say rhetoric, we use that word precisely.
5 In this tale, the Mayor's claims that illegal immigrants are
6 destroying the City are not and cannot be backed up by any
7 empirical evidence. City officials will acknowledge this.
8 The Mayor does not know how many illegal immigrants there are
9 in Hazleton or how many work or rent there. He cannot
10 quantify the burden on public services. He is unable to give
11 details about how it is illegal, as opposed to legal,
12 immigrants or others who are causing problems in the local
13 schools and hospitals. Significantly Hazleton provides no
14 funding to either of the schools or the hospitals.

15 Financially, the City situation is not rosy, but it
16 is better than it has been in the past. Your Honor will hear
17 City Manager Sam Monticello talk about how assessed property
18 values in 2006 were at an all time high; how the City is in
19 the middle of the first three-consecutive-year property value
20 increase since 1997; how the lack of developable land means
21 large corporations have opened up outside the City limits,
22 depriving it of needed tax revenues; how the County's
23 assessment board is too lax with owner tax appeals, again
24 depriving the City of revenue; and how the discussion about
25 the fiscal prognosis in the 2007 budget does not mention any

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1 effect caused by illegal immigrants; and how the auditor's
2 review of Hazleton's financial health also doesn't mention
3 illegal immigrants; and how Hazleton has managed to maintain
4 a triple A bond rating.

5 On crime, Your Honor will hear that the Mayor had
6 no statistics about the crime committed by illegal immigrants
7 when championing the ordinances last summer and blaming
8 illegal immigrants for the City's ills.

9 You will hear from Police Chief Robert Ferdinand
10 that it was not until he was forced by the Plaintiffs'
11 discovery request that he compiled any data, which was not
12 until January of 2007, after even the most recent amendments
13 to the ordinances. That even after compiling the data, the
14 City could not provide statistics about how many of the
15 thousands of crimes committed in the past five years or six
16 years were committed by illegal immigrants, and that a manual
17 and computer review of the thousands of crimes committed in
18 Hazleton over the past five years, the City was able to
19 produce evidence of only about 20 crimes, including Derrick
20 Kichline, that may have been committed by illegal immigrants.
21 I say may, because these are based on arrest records, not
22 convictions.

23 You will also hear Chief Ferdinand testify how the
24 Federal Government actually has helped Hazleton address
25 crimes allegedly committed by illegal immigrants, and how

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1 there are Federal Government programs, notably something
2 known as the 287(g) process, which are designed to help
3 states and municipalities address illegal immigrant crime,
4 which have been employed successfully in many places around
5 the country. But you will also hear Chief Ferdinand tell you
6 that Hazleton has not yet taken advantage of the program
7 despite the Federal Government's encouragement to do so.

8 The Court will hear from Plaintiffs' expert Ruben

9 Rumbaut, a widely published and national recognized and
10 respected expert on immigration, who will testify via video
11 deposition about how national studies show that contrary to
12 popular belief, illegal immigrants commit crimes at lower
13 rates than do native born people.

14 As the Court will see, the two tales are
15 irreconcilable. We expect that at the close of the
16 proceedings, the evidence will more strongly support the tale
17 of the Plaintiffs, but I need to stress a very important
18 point, ultimately, it does not matter which tale the Court
19 believes.

20 Even if the City's tale turns out to be closer to
21 reality, and that illegal immigrants really are wreaking
22 havoc on Hazleton, that does not change the legal analysis.
23 It would not and cannot justify Hazleton taking a shortcut
24 through the United States Constitution, which brings me last
25 to Hazleton's ordinances.

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1 The battling experts in the two different tales
2 will consume much time at this trial, but ultimately, the
3 most important facts relate to the three ordinances: 2006-18
4 and its amendments, and 2006-40, collectively known as the
5 revised Illegal Immigration Relief Act; 206-13, which we will
6 refer to as the Tenant Registration Ordinance. The
7 ordinances regulate both employment and housing.

8 On the employment side, the Court will hear how the
9 ordinances require employers to check immigration papers of
10 everyone who gets paid to work, even when Federal Law
11 excludes an individual from such a check; how the ordinances
12 require employers under certain circumstances to sign up for

13 a federal employee verification system known as Basic Pilot,
14 even though under Federal Law the program is strictly
15 voluntary; how the ordinances create a whole new cause of
16 action for discharged workers, even ones terminated for cause
17 if they can show that the business employed an illegal worker
18 at the time of the firing; a cause of action that gives
19 trebled damages, costs and attorneys fees. Again, this is
20 not only inconsistent with Federal Law, but it is
21 inconsistent with Pennsylvania Law.

22 The Court will hear how under Federal Law, the
23 employers are not permitted to check the status of current
24 employees, but only new hires. Given the ordinance's
25 imposition of responsibilities on businesses, there is good

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1 reason why the United States Chamber of Commerce in an
2 unusual alliance with the ACLU and the Puerto Rican Legal
3 Defense and Education Fund is supporting the Plaintiffs in
4 this case.

5 On the housing side, the Court will hear how
6 Hazleton is the first city in the country that requires
7 tenants to register with the City and provide proof of
8 citizenship or immigration status, and how landlords must
9 check their tenants' immigration status to keep from being
10 held liable. Neither is required by Federal Law, and neither
11 is consistent with the way that the Federal Law is designed
12 and administered.

13 The Court will also hear how both the employment
14 and housing enforcement schemes are complaint driven. Anyone
15 can file a complaint, including City employees, business
16 competitors, vengeful neighbors, and there is no penalty or

17 provision to prevent or discourage false claims. Instead,
18 there is a financial incentive for discharged employees to
19 allege that their co-workers are, quote, illegal.

20 The Court will hear how race and ethnicity are
21 valid considerations in investigating a complaint. While the
22 ordinance says that complaints cannot be, quote, solely or
23 primarily on the basis of race and ethnicity, that means that
24 race and ethnicity are permissible and valid considerations
25 under the ordinance.

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1 The Court will also hear how the ordinances contain
2 no provisions making it illegal for employers and landlords
3 to discharge employees and tenants respectively for
4 discriminatory reasons.

5 Plaintiffs' expert, Mark Rosenblum, will talk about
6 how the ordinances create incentives for defensive employee
7 firings and defensive tenant evictions. In other words,
8 rather than deal with problems created by foreigners who may
9 or may not have valid papers, employers and landlords are
10 likely to deal with any complaints by simply getting rid of
11 the employees and the tenants regardless of the merits for
12 doing so.

13 The Court will also hear how the ordinances work or
14 don't work, how employees do not get notice that they are
15 suspected of being illegal workers, how neither employees nor
16 employers are given a hearing before Hazleton orders the
17 employer to terminate the employee, how tenants are not given
18 any notice that a complaint has been filed that they are an
19 illegal alien, how neither the tenants nor the landlords are
20 given hearings before the landlord is ordered to take action

21 to evict the tenant, and how the only recourse for any
22 aggrieved party is for them to take the initiative at their
23 own expense to file an action in Hazleton Magistrate Court
24 with an appeal to the Luzerne County Court of Common Pleas,
25 and how the burden is on the aggrieved party to disprove

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1 Hazleton's allegation.

2 In a poignant example of how the ordinances don't
3 and can't work, the Court will hear that Hazleton does not
4 have a verification system in place. In amending the
5 ordinances repeatedly, the City has taken great pains to
6 create a system that relies on the Federal Government
7 allegedly to determine whether individuals are or are not,
8 quote, illegal aliens.

9 The City will repeatedly point out that they will
10 never be making that determination. It will always be the
11 Federal Government, but what the Court will also hear is that
12 Hazleton has no agreement with any federal agency to conduct
13 this verification. They cannot describe how the process will
14 work. They cannot say to whom the complaint will be
15 transmitted or who in the Federal Government will conduct the
16 check. They will concede all of these things, because there
17 is no verification system in place to allow the ordinance to
18 operate in a way it is written, nor could the Federal
19 Government legally create such a system, even if it wanted
20 to.

21 Finally, the Court will hear from Plaintiffs'
22 expert Stephen Yale-Loehr, co-author of the preeminent
23 multi-volume treatise on immigration law. Professor
24 Yale-Loehr will testify about how the determination of

25 someone's current immigration status is very complex; how

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1 someone's current immigration status does not solely
2 determine whether the Federal Government will permit that
3 person to live in the United States; how that decision is and
4 can be made only after extensive federal administrative and,
5 if necessary, judicial proceedings; how even in the
6 situations where the Federal Government has decided that it
7 should remove someone, that person may still have the right
8 to reside in the United States; and how many people who lack
9 immigration status may still legally work in the United
10 States; and finally, how the ordinances are impossible to
11 reconcile Federal Immigration Law because they do not take
12 into account these kinds of issues. The operation of
13 Hazleton's ordinances should be the primary focus of this
14 trial.

15 In closing, let me stress again that regardless
16 which tale of Hazleton the Court adopts, or how the Court
17 perceives the national debate about various important issues
18 related to illegal immigration, the legal problems with the
19 ordinance will remain the same.

20 The case is not a referendum on illegal
21 immigration, regardless of our views on what this country's
22 immigration policy should be, or how the laws should be
23 crafted.

24 First and foremost, those laws must comport with
25 the United States Constitution, and they must treat all

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1 people fairly no matter what their color or nationality.

2 As with most things in life, there is a right way
3 and a wrong way to accomplish a goal. At the close of this
4 trial, Plaintiffs will ask this Court to declare that
5 Hazleton's ordinances are the wrong way because they take a
6 shortcut through important Constitutional protections and are
7 inconsistent with Pennsylvania Law.

8 The Plaintiffs will ask the Court to enter judgment
9 in their favor. Thank you.

10 THE COURT: Thank you very much, Mr. Walczak.

11 The opening for the Defense, Mr. Kobach.

12 MR. KOBACH: May it please the Court, my name is
13 Chris Kobach from the University of Missouri and Kansas City
14 School of Law representing the Defendant, City of Hazleton.
15 You know co-counsel. I will just briefly introduce them.
16 From Deasey, Mahoney & Bender, we have Hank Mahoney, Drew
17 Adair, Carla Maresca. Mike Hethmon with the Immigration
18 Reform Law Institute and Liz Gallaway, as well as Chris
19 Slusser, the City solicitor. Thank you.

20 On May 10th, 2006, at about 11:30 at night, Derrick
21 Kichline was lifting something out of the cab of his pickup
22 truck next to his house. At about that time, two illegal
23 aliens walked up to Mr. Kichline. One Pedro Cabrera pointed
24 a handgun at his forehead, pulled the trigger and killed him
25 on the spot. The two men hopped into his car with two other

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1 illegal aliens and drove away. May 10th, 2006, was the straw
2 that broke the camel's back. It would be the first of three
3 murders in 2006. All of the murder instances would involve
4 illegal aliens in some way.

5 There had been two murders in 2005. One of the two
6 occurred on October 22nd, 2005, when an illegal alien named
7 Jose Castro Sanchez chased a man out of a store onto a street
8 in Hazleton and then shot him in the back while he was
9 running down the street. The previous murder before 2005 was
10 in 2001 when another illegal alien, Hector Luna, shot two
11 people after a high school football game at a local pizza
12 shop.

13 The point being that we saw multiple murders in
14 2005 and 2006, but if you go back in time, Hazleton rarely
15 had seen murder in any year. Many year gaps between each
16 murder. So you jump back to 2001.

17 Before that, you would have to go back to 1994 to
18 find another murder in the City of Hazleton.

19 Something had changed.

20 with a wave of illegal immigration in recent years,
21 Hazleton had seen new criminals and new sorts of crime.
22 Hazleton had a long history of welcoming immigrants going all
23 the way back through the City's history. Attracted by coal
24 mines for most of the City history, attracted by other jobs
25 today, and, of course, attracted by the beautiful region that

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1 is this area.

2 In the mid-19th Century, we had Irish immigrants
3 coming into Hazleton. In the early 20th Century, we saw
4 Italian Americans coming into Hazleton. In the 1980's and
5 1990's, we saw many Mexican and Hispanic immigrants coming
6 into Hazleton legally. All welcomed with open arms by the
7 Hazleton City Council and the Mayor and by the residents of
8 Hazleton.

9 But in the last few years, illegal immigration has
10 taken a new pace and has played a very destructive role in
11 Hazleton's history, and throughout this case, you are going
12 to hear witnesses presented by the Plaintiffs who will just
13 talk generally about immigrants, and I urge you every time
14 you hear the word alien or immigrant, to be very careful when
15 you're listening and be sure they are distinguishing between
16 illegal and legal, because the statistics for all of those
17 groups are very different, and to lump them together is --
18 well, frankly, it is illogical and will taint any conclusion
19 that one tries to reach about these very disparate groups.

20 Again, back to the criminal statistics. So in the
21 five years from 2004 -- from 2000 to 2004 inclusive, there
22 were only three arrests in the City of Hazleton involving
23 confirmed illegal aliens.

24 But then in 2005, in that year alone, there were
25 five arrests of illegal aliens involving crimes, all

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1 involving either drug trafficking or murder, by the way.
2 Then the exponential increase began in 2006.

3 In 2006, there were 19 arrests of illegal aliens
4 involving murder, rape, assault, and drug dealing. Nothing
5 minor like shoplifting, loitering, burglary. All violent
6 crimes.

7 Now, by the way, these are just the confirmed cases
8 of illegal aliens being arrested, where either the alien
9 himself admits that he's unlawfully present in the United
10 States, or the Hazleton Police Department confirms with the
11 Federal Government through one of their many systems, the
12 Federal Government's many systems, the Law Enforcement

13 Support Center, that the individual in their custody is an
14 illegal alien.

15 In addition, in 2005 and 2006, illegal aliens were
16 responsible for approximately 30 percent of all of the drug
17 arrests or drug incidents that led to arrest in the City of
18 Hazleton.

19 Indeed, the largest drug bust and drug operation in
20 Hazleton's history, the so-called Barber Shop Case,
21 culminated in May of 2006 as well. It was a culmination of
22 thousands of hours of investigation spanning two years,
23 literally thousands of hours by the Hazleton Police
24 Department, and it resulted in the arrest of several illegal
25 aliens, but the two individuals at the center of the

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1 operation were both illegally present in the country from the
2 Dominican Republic.

3 In addition to the individual crimes, the City of
4 Hazleton began to notice another criminal presence, and that
5 was that the City was now home to several illegal alien
6 street gangs, including most notoriously MS-13, as well as
7 the Latin Kings and the Three Notarios.

8 Now, the crimes were bad enough, but the police
9 department soon realized there is another cost that comes
10 with crimes committed by illegal aliens, and that is there
11 are sometimes innumerable hours, but usually they try to put
12 a number on it, hours spent identifying perpetrators, because
13 illegal aliens usually operate with false documents and
14 multiple identities. It takes a long time to figure out who
15 the individual is that you have in your custody.

16 The Kichline murder alone required the understaffed

17 police department of Hazleton to work 36 straight hours, used
18 up more than half of the overtime budget for the entire year
19 on that one incident. And while we're on the subject of
20 crimes committed by illegal aliens, let's get one thing
21 straight right away, these violent crimes committed by a
22 subset of illegal aliens are just one category, but virtually
23 every illegal alien in the United States commits numerous
24 other crimes on a regular basis.

25 It is a Federal crime to present a false Social

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1 Security number to work in the United States. It is a
2 Federal crime to present a false document to any government
3 official in the United States. It is a Federal crime to open
4 a bank account using a false identity document. It is a
5 Federal crime to forge any immigration document. It is a
6 Federal crime to use any forged immigration document. It is
7 a Federal crime for any non-citizen in the United States not
8 to carry around immigration papers on his person while in the
9 United States. And it is a Federal crime to take steps to
10 encourage or abet another illegal alien to remain in the
11 United States.

12 The criminal impact which I have been talking about
13 for a couple of minutes here is only the most obvious of the
14 costs imposed on the City of Hazleton by the presence of
15 aliens unlawfully present in the United States, but the City
16 budget was bursting at the seams, too, and the Hazleton
17 School District, which shares nearly identical jurisdictional
18 lines with the City of Hazleton, was seeing its expenses
19 mount, too, going to the same taxpayer trough for money to
20 pay those expenses.

21 For example, English as a second language expenses
22 went from \$500 in the year 2000 to over \$1.1 million in the
23 year 2006. The emergency room at the area hospital saw a
24 wait time climb to over five hours in the emergency room.
25 This is a common phenomenon in any area that sees an increase

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1 in illegal immigration. why? Because Title 8, Section 1621
2 of the U.S. Code prohibits states and municipalities and
3 counties from providing all kinds of public assistance to
4 illegal aliens, but expressly makes an exception for
5 emergency medical care, and there is a Federal statutory
6 right for any illegal alien in this country to receive free
7 emergency medical care, which drives so many to the emergency
8 room no matter what the ailment is. Hazleton saw this happen
9 in their emergency care.

10 The Mayor began studying the problem. He met with
11 City department heads to ascertain the fiscal impact of
12 illegal immigration on the City. He read studies. He read
13 the famous 2005 Bear Sterns report, which we will be talking
14 about, which showed that the fiscal impact of illegal
15 immigration on cities and states in America is now over \$65
16 billion a year. That is net after any tax revenues are taken
17 into account. He met with school district officials,
18 hospital officials, ordinary citizens and decided that
19 something needed to be done to preserve the City that he grew
20 up ^ in, the City that he loved, and the City that he took an
21 oath to protect.

22 After hearing about a proposed ordinance in a
23 municipality in California, he met with the City solicitor
24 and decided that they, too, could act carefully, precisely

25 and exercise what authority the City had consistent with

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1 Federal Law and under the guidelines of Federal preemption
2 law as defined over many years by the Federal courts and
3 consistent with longstanding Supreme Court opinions to take
4 action in the field.

5 Now, Your Honor, we're going to spend much of this
6 week hearing factual testimony about Hazleton, about the
7 Plaintiffs, about their lives and the impact on the City of
8 Hazleton and the impact of illegal immigration, and I'm sure
9 this information that we're going to hear about is going to
10 be very interesting, but I'm also show that this case is
11 not going to rely primarily upon such factual stories and
12 information.

13 This is not a fact-based case where we are trying
14 to ascertain did he do it or not do it in which legal
15 questions play a subsidiary role. Rather, this is the
16 opposite. This is primarily a legal case, where facts will
17 come in and play a subsidiary role in answering what are
18 fundamentally legal questions. The facts will play a primary
19 role in answering the question of standing, the equal
20 protection challenge and the challenge of whether there is
21 within the City's legitimate exercise of its police powers.

22 Frankly, Your Honor, I think you could probably
23 decide many of these issues without any witness testimony,
24 but we will present witness testimony, and we will show you
25 that the facts clearly support what Hazleton has done.

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1 The reason I say you can probably decide this case
Page 25

2 right now is that where the facts are relevant in
3 ascertaining whether the City has met the test or not, the
4 relevant legal standard, as I will show in a minute, is
5 rational basis only. In other words, the City need only have
6 a rational basis, minimum scrutiny to have passed its
7 ordinance, and we will show that clearly they passed that
8 threshold, and indeed they could probably pass intermediate
9 scrutiny or strict scrutiny as well.

10 Now, with regard to the other legal challenges
11 presented by the Plaintiffs, the facts play a less decisive
12 role, but I will explain how the facts do play a role in each
13 of those challenges. I will present an outline of the case,
14 Your Honor, and explain with respect to each legal question
15 where the factual inquiry fits in.

16 I apologize in advance for speaking in outlines. I
17 hope you don't mind, but as a professor of constitutional law
18 and immigration law, both complex subjects, I find it easiest
19 to speak in outlines, and then go through it in that order.

20 I will walk through the six most important
21 arguments that the Plaintiffs have presented. They have a
22 few other challenges thrown in along with the kitchen sink,
23 but those really are not worth our time today. I think the
24 six big ones, and I think they probably would agree, are the
25 following: First, standing; second, preemption under the

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1 Immigration and Nationality Act; third, due process; fourth,
2 equal protection; fifth, preemption under the Fair Housing
3 Act; and sixth, the City's exercise of its police powers.

4 Now, the Plaintiffs will present witness after
5 witness telling various stories, but I urge Your Honor to

6 keep these six legal questions firmly in your mind, because
7 many of the factual stories that we hear will not be directly
8 relevant, but some will, and I encourage you to put them in
9 where they relevantly apply.

10 Let's go first to standing. You are undoubtedly
11 familiar with the three constitutional requirements of
12 standing in LeHawn and also with the three prudential
13 requirements of standing.

14 Let me suggest for this specific case there are
15 four specific questions that must be answered with respect to
16 each and every plaintiff, because, of course, each plaintiff
17 must prove his own standing, and here the factual inquiry
18 will be dispositive.

19 So what are the four standing questions for this
20 case today? First, does the plaintiff assert a legally
21 cognizable interest that is injured? Is it injury to a
22 legally cognizable interest? Second, are the Plaintiffs'
23 injuries based on a concrete showing rather than speculation,
24 based on a concrete showing, rather than speculation? Third,
25 are the injuries the direct result of the ordinance and not

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1 dependent upon the actions of third parties who are not
2 before the Court? Are they the direct result of the
3 ordinance and not dependent upon the actions of third parties
4 who are not before the Court? Fourth, constitutional
5 requirement aside, there is an important prudential
6 requirement, and that is the zone of interest test. So the
7 question is, with respect to a preemption challenge under the
8 Immigration and Nationality Act, or INA, are the Plaintiffs
9 within the zone of interest of the INA, Immigration and

10 Nationality Act? Are the Plaintiffs within the zone of
11 interest?

12 If the answer to any one of these four questions,
13 not two of the four, not three of the four, if the answer to
14 any one of the four questions is no, then the plaintiff lacks
15 standing.

16 You will find, Your Honor, that once you go through
17 these four questions that -- at the end of day, that none of
18 the Plaintiffs in this case possess standing.

19 So let's go first to the first of those four
20 questions. Is the injury to income renting to or employing
21 illegal aliens legally cognizable? Is injury to that kind of
22 income legally cognizable? The answer is no. It is well
23 established that the plaintiff in a case, such as this, must
24 show a legally cognizable injury, in fact, and that
25 Plaintiffs -- the landlord Plaintiffs assert that their

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1 injury is the loss of rental income to individuals who in the
2 future who will no longer be renting from them. Remember
3 this ordinance only applies -- prospectively, by the way --
4 only apply to tenants who choose to commence a rental
5 contract in the future. It only applies to employees who
6 become employed in the future. It does not apply on its
7 express terms to anyone who is currently employed or
8 currently a tenant or under their current contract, only
9 contracts in the future.

10 Now, the injury they say is to the business that
11 they would get from these illegal alien employees and illegal
12 alien tenants. This income that Plaintiffs might
13 hypothetically lose is income that is dependent upon the

14 continuing violation of immigration law, either the unlawful
15 employment of the unauthorized alien, or the continuing
16 presence in the United States against Federal Law of illegal
17 aliens.

18 Income that is dependent upon a crime, and both of
19 those are Federal crimes, is not a legally cognizable injury.
20 Just as a drug dealer cannot claim a legally cognizable
21 interest in the money that he might gain from selling drugs,
22 so too someone who depends upon the existence of a Federal
23 crime to gain this income cannot claim a legally cognizable
24 interest in that income. As the Supreme Court has said,
25 where a contract grows immediately out of and is connected

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1 with an illegal act, the Court of justice will not lend its
2 aid to enforce it.

3 Similarly, one does not have a legally cognizable
4 interest, as some of the shop owner Plaintiffs say, in
5 serving food or selling products to someone that is illegally
6 present in the United States while sitting at a table in
7 their store. If the income is dependent upon a predicate
8 violation of Federal Law, then that injury is not one that
9 can be recognized for standing purposes.

10 The second question, have the Plaintiffs
11 established a concrete injury not based on speculation?
12 Again, the answer is no. Plainly, it is pure speculation to
13 assert that any of the landlords of Plaintiffs is on the
14 verge of losing the business of an illegal alien in the
15 future or that the business Plaintiffs are on the verge of
16 losing customers because of the ordinance in this case. They
17 have to show either that they have already suffered this

18 injury or that there is an actual imminent risk that they are
19 about to suffer this injury. The litigant must clearly show
20 that there is a concrete injury that is not in any way based
21 on speculation about what might happen in the future.

22 They will fail to show that, because their case is
23 plainly based on speculation in every aspect. The same is
24 true about the employer Plaintiffs. They have not shown or
25 none of them have even alleged that they have employed an

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1 illegal alien in the past, much less shown that they intend
2 to engage in a contract to employ an illegal alien in the
3 future which is what they must show. Remember, the ordinance
4 are prospective only.

5 As much as we would like to get into the meaty
6 substantive issues of this case, Your honor, the Plaintiffs
7 have jumped the gun. At this point, it is pure speculation
8 to assert that someone among the Plaintiffs might possibly be
9 injured at some point in the future because we have to
10 speculate to draw the chain of events that would lead to that
11 injury.

12 None of them can base their future anticipated
13 injury on anything other than the speculation and, indeed,
14 when we talk about the business Plaintiffs, which we will
15 shortly, they assert a loss of customers that has already
16 occurred. Here, again, it is pure speculation to attribute
17 this loss of customers to the ordinance which is yet to be
18 implemented.

19 In fact, we will show that the loss of customers
20 was, in fact, due to poor business practices in these
21 businesses.

22 The third question, is the injury the direct result
23 of the ordinance and not the result of independent decisions
24 by third parties not before the court? The answer is no.

25 The government action complained of in a case such

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1 as this must cause the injury asserted. This is the
2 so-called causation requirement of standing. The Supreme
3 Court has said repeatedly that there cannot be intervening
4 actions by third parties that lead in this chain of
5 causation. The injury cannot be manifestly the product of
6 the independent action of the third party, to quote the third
7 circuit. The conjectural injury here results from a decision
8 by third parties; namely, tenants not to rent, third parties;
9 namely, employees not to become employed in the future or
10 customers not to bring their custom to the businesses in
11 question. The independent action of third parties completely
12 knocks out, by the way, the business Plaintiffs in this case.
13 The loss of revenue in a grocery store, the loss of customers
14 at a restaurant, it is not caused by the ordinance. It is
15 caused by decisions by individuals whether to eat lunch at a
16 particular place.

17 Let's assume that hypothetically they could show
18 based on witness testimony that the ordinances were a
19 contributing factor in the decision of people where to eat
20 lunch. That still does not meet the requirements of
21 standing, because you had an intervening decision by an
22 independent third party before you get to the injury to the
23 plaintiff.

24 The fourth question regarding standing, are the
25 Plaintiffs within the zone of interest with the Immigration

1 and Nationality Act? Again, no.

2 Here all of the Plaintiffs lack standing to bring
3 their specific challenge of preemption under the Immigration
4 and Nationality Act, because if you bring us a standing
5 challenge, if you bring a challenge that a state or local
6 ordinance is in conflict with a Federal act, you must show
7 that you are within the zone of interest protected by that
8 act.

9 Now, if, for example, Plaintiffs were saying that
10 the Immigration and Nationality Act were being enforced
11 wrongly against them, that they were allegedly illegal aliens
12 and that the act itself was unconstitutional, of course, they
13 would have standing to make that claim, but they do not have
14 standing to claim the protection of the acts in resisting the
15 City ordinance. There they have to be within the zone of
16 interest of the Immigration and Nationality Act. Justice
17 O'Conner said something quite on point in this matter. She
18 said explicitly with regard to the landlords and employers of
19 illegal aliens, quote, the fact that the INS regulations may
20 affect the way an organization allocates resources, or, for
21 that matter, the way an employer who currently employs
22 illegal aliens or a landlord who currently rents to illegal
23 aliens allocates its recourse, does not give standing to an
24 entity which is not within the zone of interest the statute
25 is meant to protect, end quote. Plainly, employers who

1 employ illegal aliens, landlords who harbor illegal aliens,

2 and businesses that serve illegal aliens were not entities
3 that the Immigration and Nationality Act was meant to
4 protect.

5 The same is true of an alien himself not illegally
6 present in the United States. By definition, the Immigration
7 and Nationality Act is not there to protect him. He has been
8 defined in that class by the Immigration and Nationality Act
9 as illegally present in the United States.

10 So standing aside, let's go to the second issue,
11 preemption under immigration law. Two quick observations
12 here. First, there is a heavy presumption against preemption
13 in all the Federal Law, but including Federal immigration
14 law. Heavy presumption that the Court must entertain in
15 determining whether Federal Law preempts a state or local
16 act. Secondly, congressional intent is the cornerstone of
17 preemption analysis.

18 Now, Plaintiffs do not and cannot make a claim of
19 express preemption, which would be Federal Law saying a City
20 shall not do "X", and "X" being what the City allegedly does.
21 They do not make that claim, and they rely on implied
22 preemption claims.

23 Now, the Supreme Court has given us direct marching
24 orders in how to assess an implied preemption claim in the
25 context of immigration law. That was in the Supreme Court

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1 landmark case of De Canas versus Bica in 1976, and in De
2 Canas, the Supreme Court upheld a California law that
3 penalized the employers of illegal aliens in California and
4 imposed state levy penalties. The Supreme Court said that
5 was okay, and it met the three-part test that the Court

6 established in De Canas. Every Federal court since that case
7 in 1976 has applied the De Canas test to see whether a state
8 or local law is preempted under immigration law.

9 So to make the determination in this case, Your
10 Honor, we must ask the three questions of De Canas. The
11 three questions are: One, is this a regulation of
12 immigration? Two, has Congress entirely occupied the field
13 so as to displace all state action? Three, is there conflict
14 preemption such that the ordinance defeats the objectives of
15 Congress?

16 Then that third question can be divided into three
17 subsidiary questions: Does the local ordinance represent
18 concurrent enforcement? Is compliance with both the Federal
19 Law and the local law possible? Third, what is the manifest
20 intent of Congress as expressed in the statute? Sorry about
21 the complexity of the outline, but I want to go very
22 carefully through this.

23 So again, the three tests of De Canas, and then the
24 three subsidiary questions under question three.

25 Question No. 1 of De Canas, are the ordinances in

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1 regulation of immigration? I put quotes around regulation of
2 immigration under De Canas, because in that case, the Supreme
3 Court defined precisely what those words mean. The Supreme
4 Court sustained that California law, and in the sustaining of
5 that Federal Law, the Court said in passing that this would
6 be preempted if it were a regulation of immigration, but it
7 is not a refutation of immigration. The Court went on to
8 define what the, quote/unquote, regulation of immigration
9 means. A regulation that defines who may enter the country

10 or defines a condition under which the lawfully admitted
11 alien may remain, a lawfully admitted alien may remain. In
12 the words of De Canas court, standing alone, the fact that
13 aliens are the subject of a state statute does not render a
14 regulation of immigration, which is essentially a
15 determination of who should or should not be admitted into
16 the country and the conditions under which a legal entrance
17 may remain, end quote.

18 You will hear that Hazleton has not in any way
19 attempted to define who can be admitted into this country or
20 the conditions under which lawfully admitted aliens may
21 remain in this country.

22 On its face, the text of ordinances makes express
23 references to Federal Law repeatedly and use only the
24 definitions of Federal Law in defining whether a person is
25 permitted to be employed or permitted to be a tenant in the

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1 City of Hazleton.

2 Here the factual inquiry plays a slightly larger
3 role, because the system created by the City of Hazleton
4 relies upon Federal determinations of each alien in question
5 of whether that alien is in the United States legally or not.

6 As the ordinance reads, "At no point shall any City
7 official attempt to make an independent determination of any
8 alien's legal status without verification from the Federal
9 Government, pursuant to United States Code Title 8, Section
10 1373(c)."

11 The Federal Government has to give an answer. If
12 any local or state government asks the question, there is an
13 obligation to give an answer.

14 Since it was passed, there are three separate
15 systems. There is the law enforcement support center. It is
16 based in Williston, Vermont. The second one is the
17 systematic alien verification for entitlements program. The
18 third is the basic pilot program. That is for employers, and
19 that system is designed to lighten the load on employers who
20 are required -- contrary to what Plaintiffs said, who are
21 required under Federal Law right now to look at employment
22 documents in filling out the I-9 form, and basic pilot defers
23 and pushes the question to the Federal Government by getting
24 verification from the government through this internet based
25 system whether the individual is lawfully entitled to work.

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1 None of the programs are connected, by the way, to the
2 Section 287(G) statute that you hear the Plaintiffs refer to.
3 You don't need 287(G) to use LESC or any of them, and it is
4 important to note this about the SAVE system. In the LULAC
5 decision in the Central District of California in 1996, the
6 Court found that there was no preemption under particular
7 provisions at issue in this case because the state would rely
8 on the SAVE system in determining whether benefits would be
9 provided.

10 Second question under De Canas test, has Congress
11 occupied the field and displaced all state legislation? No.
12 The De Canas court already gave us the answer. Congress has
13 not occupied the field. It is not a complex and regulatory
14 scheme that there is no room for state or local action.

15 Again, to summarize by quoting De Canas itself,
16 "There is no indication in either the wording or the
17 legislative history of the Immigration and Nationality Act,

18 that Congress intended to preclude even harmonious state
19 regulation touching on aliens in general, or the employment
20 of illegal aliens in particular." No court has found
21 complete occupation of the field in the 30 years since
22 De Canas.

23 Third question, is there conflict preemption, such
24 that the local law defeats the objectives of Congress? We
25 will not be able to show conflict presuming here De Canas

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1 stands for the principle that state and local governments are
2 free to do many things that have effects on immigrants, both
3 legal and illegal, but there are only certain things that
4 they cannot do; namely, regulate who may come into the
5 country and the like.

6 with respect to the employment provisions of the
7 ordinance passed by Hazleton, not only are they not in
8 conflict with Congress, Hazleton is actually expressly
9 following Congress dictates in section 1324a(h)(2).

10 In Title 8, it says specifically that the State or
11 City may not impose criminal or civil sanctions upon the
12 employers of illegal aliens, but a City may impose licensing
13 or other sanctions.

14 That is exactly what Hazleton did, licenses or
15 other penalties, it takes away the business license of these
16 individual businesses, and it makes them subject to a private
17 action brought by the U.S. citizen employee who may be fired
18 as a consequence of illegalities, and we give extensive legal
19 analysis in our brief as to why this right of action is
20 equivalent to licensing sanction under the law, and I will
21 leave it to you and your clerks to read that at some other

22 point.

23 Now, the four subsidiary questions under conflict
24 preemption; first, does the local law represent concurrent
25 enforcement? The answer is yes. Many challenges based on

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1 preemption in immigration law have failed because of the
2 doctrine of concurrent enforcement activity which allows the
3 state and local government to account; that is to say, they
4 are not preempted when they undertake concurrent enforcement
5 activity with the Federal Government. The term comes from
6 the 9th Circuit precedent of *Gonzales v. Peoria* in 1983,
7 "Where state enforcement activities do not impair Federal
8 regulatory concurrent enforcement activity is authorized."

9 The concept dates back to 1928. In the words of
10 Judge Learned Hand from the second circuit said, "it would be
11 unreasonable to suppose that the Federal government's purpose
12 was to deny itself any help that the states may allow."

13 In the case at bar, with respect to the harboring
14 provisions of the immigration ordinance passed by Hazleton,
15 those are expressly consistent of the INA, which is worded
16 nearly identical.

17 Numerous Federal circuit courts, namely the 5th,
18 8th and 9th, have all confirmed that the provision of an
19 apartment or other housing to illegal aliens fits squarely
20 within the Federal crime of harboring.

21 Hazleton's prohibition of the harboring of illegal
22 aliens is entirely consistent with Federal Law and represent
23 unpreempted "concurrent enforcement activity."

24 The employment provisions of Hazleton's ordinance
25 only penalize those employers who are violating Federal Law

1 by employing illegal aliens. In other words, it is not only
2 concurrent enforcement activity, it is perfectly concurrent
3 enforcement activity. So we have exact concurrence between
4 the proscribed activity. They will not be able to show
5 otherwise in the Plaintiffs' testimony.

6 The second subsidiary question, is compliance with
7 both the Federal Law and local law possible?

8 This is a question you should ask, Your Honor,
9 throughout the trial. Ask yourself if any of these witnesses
10 is placed in a position where complying with Hazleton's
11 ordinance makes it impossible to comply with Federal Law.
12 The answer will be no in every case.

13 This is one of the most basic inquiries of conflict
14 preemption. Indeed, some courts see it as the central
15 question of implied conflict preemption.

16 I would like to bring to the Court's attention to a
17 relevant precedent handed down by the Ninth Circuit just last
18 week. In the case of *Incalza v Fendi*, Case No. CV-03-06720,
19 the Ninth Circuit held that a California state employment law
20 was not preempted by the employment provisions of the
21 Immigration and Nationality Act. It was not preempted by the
22 INA. Yet another recent finding that state law is not
23 preempted under INA.

24 In reaching this conclusion, the Court asked if it
25 was possible for the plaintiff to comply both with the

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1 Immigration and Nationality Act provisions and with the State
2 law at issue, and the State said that, yes, it is perfectly

3 possible to comply in that case.

4 The Court said you could imagine a situation where
5 it may be difficult, but that wasn't good enough. Tension
6 between State and Federal Law was not enough; potential
7 conflict was not enough. The Court said inevitable conflict
8 was required.

9 Likewise, it is absolutely possible to comply with
10 both in Hazleton. There is no conflicts. The Plaintiffs
11 will not be able to show any conflict. Federal Law requires
12 that employers to check documents, if they wish, of aliens
13 seeking or any individual seeking employment with an
14 employer. Federal Law requires that person not harbor
15 illegal aliens in apartment units. Federal Law is also
16 complaint driven. These can be driven by a complaint from
17 the member of the public, by information provided by
18 executive officials of the government.

19 Third and final question under De Canas, what is
20 the manifest intent of Congress?

21 In order to decide this case, Your Honor, the only
22 laws you need to have in front of you are the 1976 Supreme
23 Court precedent of De Canas, and then the acts of Congress
24 since 1976 that have a bearing on this case. I submit to you
25 that every single act is consistent and underscores Congress'

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1 intent to encourage you to do what they have done.

2 One: 1986 Congress passes the Immigration Reform
3 and Control Act, which expressly invites state and local
4 governments to impose licensing sanctions on the employers of
5 illegal aliens.

6 Two: In 1987, the Federal Government begins
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7 building the SAVE system to allow state and local governments
8 to verify the lawful presence of aliens in this country. In
9 1996, the SAVE Program was expanded considerably, and today
10 is an internet-based program that operates in usually less
11 than one second.

12 Three: In 1994 Congress created the Law
13 Enforcement Support Center in Williston, Vermont, which is a
14 24/7 center that allows state and local officers to determine
15 whether the alien in custody is unlawfully present in the
16 country.

17 Four: In 1996, the Congress enacted Section 1373,
18 which I have already referred to, any time a state or local
19 government asks the question, the Federal Government must
20 provide an answer. That is obviously Congress' intent that
21 they want or expect state or local government to ask the
22 court.

23 Five: 1996 Congress enacted the Personal
24 Responsibility and Work Opportunity Reconciliation Act of
25 1996, or PRWORA. In doing so, Congress required states and

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1 localities to begin determining the legal status of aliens
2 and seeking public benefits. It didn't say you ought to. It
3 required them to ascertain the legal status of aliens seeking
4 public benefits.

5 Six: In 1996 Congress created the Basic Pilot
6 Program that allows employers to determine whether someone is
7 lawful in the United States.

8 Seven: In 1996, Congress passed the 287(g)
9 program, which is found in 1357(g) of Title 8 of the U.S.
10 Code. That is not relevant, but what is, is subsection 10,

11 which says that states retain their unpreempted authority to
12 cooperate with the Federal Government in apprehension,
13 detention, identification or removal of aliens not lawfully
14 present in the United States. So Congress recognize that
15 states still had existing unpreempted authority to assist.

16 Your Honor, this is overwhelming evidence of
17 congressional intent to facilitate state and local efforts to
18 address illegal immigration.

19 Let's go to the third main argument, due process.

20 If Plaintiffs' attorneys had waited until the
21 ordinance was in effect and actually found a plaintiff in
22 standing in order to bring their test case, we would be able
23 to look at the process applied, which might involve factual
24 inquiry for this Court.

25 Instead, this case is premature, the due process

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1 inquiry is purely a matter of law. On its face, the Hazleton
2 ordinance provides plenty of process, much more than is due
3 under the applicable standards of the 14th Amendment.

4 There are basically two questions.

5 First, do the Plaintiffs have deprivation of a
6 legally cognizable property interest, sufficient to trigger
7 due process?

8 If so, is the process provided sufficient to reduce
9 the risk of erroneous deprivation under the Matthews v.
10 Eldridge standard?

11 So the first question, have they shown a legally
12 protected property interest in a contract that entails a
13 violation of Federal Law? The answer is no. They have
14 failed to establish any cognizable property interest at

15 stake. This is true both with respect to the business owner
16 Plaintiffs who may employ unauthorized aliens, and with
17 respect to landlord Plaintiffs who assert a right to harbor
18 illegal aliens.

19 This specific Court held that in Demko v. Luzerne
20 County Community College that an employment contract that is
21 contrary to law creates no property interest in the
22 employment and therefore does not trigger protections of
23 procedural due process.

24 Assuming for the sake of argument that they could
25 show a property interest at stake, they still have to

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1 establish that the process provided is not adequate. This
2 they fail to do.

3 Let's look at the administrative procedures very
4 quickly.

5 First, enforcement can be initiated by a valid
6 written and signed complaint, and has to have information
7 included on the complaint which can be provided to the
8 landlord or to the employer.

9 Second, Hazleton officials must then request
10 identity information from the property owner using the
11 landlord assistant to go through this example so that that
12 information can then be provided to the Federal Government to
13 obtain a verification of the individuals in question status.
14 That is the landlord's first notice and opportunity to be
15 heard to say, oh, yes, this person is lawfully present here.
16 This is what he told me and here is what he showed me.

17 Third, only after the code enforcement officer of
18 Hazleton has verified with the Federal Government that

19 individual is not lawfully present does any enforcement
20 action begin to occur.

21 If that verification has occurred and indication
22 has been given by the Federal Government that the individual
23 is not lawfully present, then the code enforcement officer
24 gives notice to the landlord and says, if you want, I can
25 provide more information, and we will go to the Federal

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1 Government a second time and get a verification, or you have
2 five days to correct the violation or contest the suspension
3 of the owner's permit. To correct the violation does not
4 mean evicting anyone on the spot. It means issuing a notice,
5 which starts the process of eviction, or it can mean
6 obtaining yet another verification, a secondary verification
7 from the Federal Government.

8 Now, these administrative procedures are, in and of
9 themselves, sufficient to satisfy Mathews v. Eldridge.

10 In addition to all of those in both the employment
11 and landlord context, there are judicial procedures
12 sufficient to satisfy due process as well. Either a
13 landlord, tenant, employer or an employee may challenge the
14 enforcement and bring an action to enjoin, to completely stop
15 any enforcement action in the magisterial district court for
16 the City of Hazleton with all of the procedural protections
17 of that forum, as well as the right of appeal to the Luzerne
18 County Court of Common Pleas.

19 The individual challenging the ordinance can seek
20 injunctive relief to prevent the City from enforcing the
21 ordinance against him if he believes that the City has acted
22 in error or he can seek damages -- can seek any relief he

23 thinks inappropriate.

24 Finally, it should be noted that the Tenth Circuit
25 has opined on the specific question of what process is due

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1 when a business license is being denied, and the Tenth
2 Circuit has actually said that due process does not require
3 ^ a pre-deprivation hearing.

4 Fourth argument, equal protection.

5 Your Honor, in an effort to simplify this issue and
6 remove the equal protection challenge from what is already a
7 very crowded desk that you must have in this case, the
8 Hazleton City Council will be meeting this Thursday, March
9 15th, to take out the three words that the Plaintiffs object
10 to and have objected to continuously for page after page in
11 all of their briefs. Those are the words solely or primarily
12 found in Sections 4B2 and 5B2 of the ordinance. Defense will
13 stipulate that the first reading will occur on Thursday, and
14 they will be removed. We are doing this to try to remove the
15 issue, to try to accommodate the Plaintiffs.

16 My explanation of how those words fit in, if for
17 some reason the Plaintiff does not feel this is adequate, and
18 somehow I suspect that is what they will feel, we have to go
19 through equal protection inquiry anyway. So I will quickly
20 point out what it entails. There's two questions.

21 First, we ask what form of classification occurs on
22 the face of the ordinance. Second, we apply the level of
23 scrutiny appropriate for that classification.

24 So what form of classification occurs on the face
25 of the ordinance? They have confused a racial classification

1 with a classification based on alien status. No provisions
2 of the ordinance treats anyone differently based on race,
3 ethnicity, national origin, nor may the City consider those
4 factors in enforcing and applying this ordinance.

5 The only classification that exists on the face of
6 the ordinance is the classification based on immigration
7 status. The Supreme Court in Plyler expressly rejected the
8 notion that laws treating individuals who are unlawfully
9 present in the United States differently from other
10 individuals in the United States is only subject to minimal
11 scrutiny.

12 In order to manufacture a racial classification,
13 Plaintiffs assert implausibly that racial classifications are
14 "allowed" by the ordinance's anti-discrimination clause in
15 4B(2) and 5B(2).

16 4B(2) and 5B(2) used to read as follows: "A
17 complaint which alleges as a violation solely or primarily on
18 the basis of national origin, ethnicity, or race shall be
19 deemed invalid and shall not be enforced."

20 That clause was put in to make sure no
21 discrimination was incurred by members of the public of the
22 Plaintiffs. That said, solely or primarily implies that case
23 be used secondary in such a complaint.

24 So to satisfy Plaintiffs, the City of Hazleton is
25 removing solely or primarily. Hopefully Plaintiffs' counsel

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1 will stop barking up this tree, which was futile in the first
2 place, now that the City has agreed to wording that is more

3 to their liking.

4 But if they continue barking, their argument will
5 still fail because the government's actions pass the
6 appropriate legal scrutiny, and the appropriate level is
7 minimal note. That Plaintiffs are confusing actions by the
8 City in enforcing the ordinance with actions by private
9 individuals. A private individual may have some motivations
10 that are based on malice or based on irrational things, but
11 those motivations in no way affect what the City does.

12 Listen carefully to the witnesses Plaintiffs call.
13 They will talk about racial discrimination. They will talk
14 about ethnic discrimination. Nowhere will they show that
15 anything that the City does is connected to such
16 discrimination.

17 Two, the ordinance passes minimal scrutiny, which
18 is the correct standard of review.

19 So appropriate standard under the second half is
20 minimal scrutiny, what does it require? It merely requires
21 that the City present a rational basis in pursuit of a
22 legitimate state objective. Rational basis, legitimate state
23 objective.

24 Clearly the City has done this. There are plenty
25 of objectives: Reducing crime, reducing fiscal burden,

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1 improving the general welfare, just the moral basis,
2 encourage the following of laws in the City of Hazleton.
3 Those are legitimate government objectives. Is this
4 rationally related to those legitimate government objective?
5 Absolutely.

6 You will hear Plaintiffs use words empirical

7 studies. I have heard it empirical scientific science
8 commission of studies. We will show empirical evidence, and
9 we will show the connection between the unlawful presence of
10 aliens in the City and various burdens on the City, but,
11 frankly, scientific exactitude is not required in showing a
12 rational basis under equal protection.

13 The Third Circuit made it clear that no studies are
14 necessary. In the Kranson decision, the Court said that the
15 materiality of the relation between legislative action and
16 the goal sought to be attained need not be scientifically
17 substantiated. States are accorded wide latitude in the
18 regulation of their local economics under their police power
19 and rational distinctions may be made with substantially less
20 than mathematical exactitude.

21 Your Honor, much of the scientific evidence that
22 will be provided here and expert testimony is not necessary,
23 because, again, the standard is so low. Rational basis is
24 usually a slam dunk for a government entity to pass because
25 they are going down that road.

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1 we will provide our experts to show that there is a
2 link between the means chosen, but a lot of it is beside the
3 point.

4 Five, the Fair Housing Act, I won't dwell on this
5 one. It is very short and rests on the same three words that
6 the Plaintiffs find so objectionable in the
7 anti-discrimination cause of the ordinance, and so the
8 Plaintiffs' claim under the Fair Housing Act should be
9 removed from the table which will simplify the case, but it
10 will be complex without those issues, because, again, they

11 were relying on a distorted reading of the
12 anti-discrimination provisions of the ordinance which they
13 claim will invite racial discrimination. However, I suspect
14 the Plaintiffs will persist in this ill-fated claim as well,
15 and so we must look at why that claim fails.

16 There are two questions here. Does FHA prohibit --
17 does the Fair Housing Act prohibit discrimination on the
18 basis of legal status? They are on based on race, religion,
19 sex, handicap, familial status or national origin. Those are
20 the six proscribed categories under the FHA, but it does not
21 include illegal alien status among its protected class.

22 The U.S. Supreme Court has held that "Congress did
23 not intend the term national origin to embrace citizenship
24 requirements." Indeed, HUD regulations passed pursuant to
25 the FHA have excluded illegal aliens from the protection of

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1 this act.

2 Secondly, the Plaintiffs realizing the weakness of
3 their racial challenge to the ordinance under the FHA have
4 resorted -- have fallen back to a secondary argument, and
5 that is, well, they have claimed that the ordinance will have
6 a disparate impact on groups protected by the FHA.

7 As you know, Your Honor, in any impact claim, they
8 bear the burden of showing that it occurs. However, their
9 claim cannot succeed, because the ordinance has yet to be
10 implemented. A disparate impact claim cannot be shown at
11 this stage because there is no impact of the ordinance, and
12 so their fallback position on FHA must fail because of the
13 premature stage, because of what the case has.

14 Six, the legitimate exercise of police powers. The

15 police reserved to the states allow them to protect the
16 health, welfare or morality of their residents. As the
17 United States Supreme Court has observed in De Canas, that
18 includes -- those police powers include the protection of
19 prohibiting the employment of illegal aliens.

20 As the Supreme Court said, "California's attempt to
21 prohibit the knowing employment by California employers of
22 persons not entitled to lawful residence in the United
23 States, let alone to work here, is certainly within the
24 mainstream of such police power regulation."

25 Bear in mind that everything a City does or a state

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1 does in exercise of police power, the standard of review is
2 mere rationality or reasonableness. In other words, minimal
3 scrutiny. Furthermore, the presumption must rest with the
4 City. The Court must also give the presumption that the City
5 or State has acted reasonably and rationally in exercising
6 the police power. That presumption cannot be easily
7 disrupted. Ed Plaintiffs may disagree, and they do, on the
8 policy of what a City should do or shouldn't do when
9 confronted by costs associated by illegal aliens. Your Honor
10 you may even disagree with policy options the City chooses,
11 but mere policy disagreement is not enough to render the
12 exercise of City or State police powers unconstitutional.

13 The Supreme Court has said this again and again.
14 we give you about a half dozen cases that cite that. There
15 is argument showing that conflicting evidence is not
16 sufficient to undercut the presumption that a State's police
17 power has been exercised in a rational manner.

18 so if that is the standard, then the final question

19 we ask, has the City acted in a rational manner? Has the
20 standard of mere rational minimal scrutiny, could the City
21 have concluded that the health, safety and welfare or
22 morality of its residents would be promoted by enacting the
23 ordinances?

24 Indeed, the desire to uphold the rule of law by
25 discouraging ongoing violations of Federal Law committed by

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1 employers and harborers of illegal aliens is sufficient
2 rational basis for the ordinances, even if there were no
3 criminal or fiscal consequences for the City of Hazleton.

4 So it is a slam dunk standard, and I have an easy
5 hurdle for the City to cross, and all of the expert testimony
6 will be sufficient to cross that standard.

7 Of course, Hazleton will respond to the Plaintiffs'
8 experts and Plaintiffs' testimony, and we will provide our
9 own expert witness and our own studies and statistics that we
10 have alluded to by the crimes committed to, but all of these
11 things are, if you will, overkill.

12 Again, the only threshold, the only hurdle that
13 needs to be passed is, did the City act rationally? As the
14 Supreme Court has said, "The question is not whether the
15 State can establish a genuine public need for specific
16 regulation, but whether respondent can demonstrate that there
17 is no rational connection between the regulation and
18 promotion of safety of persons and property."

19 The bottom line is that Plaintiffs are requesting
20 this Court to second-guess the policy judgment of Hazleton
21 City Council and Mayor.

22 In conclusion, the City has responded rationally to

23 a very real threat to the health, safety and welfare of its
24 residents.

25 The ordinances were painstakingly drafted to adhere

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1 precisely to Federal Law. And all the Constitutional
2 violations imagined by the Plaintiffs were ill conceived in
3 their rush to the courthouse door.

4 As a result, we sit here today, without a Plaintiff
5 in the room who possesses standing.

6 You will hear many hours of witness testimony from
7 the Plaintiffs that is wholly irrelevant to the legal
8 inquiries that I just outlined.

9 You will be forced to hear this because they have
10 not focused on the legal tests that they must pass.

11 But after all the sound and fury is through, they
12 still will not have met their burden under any of the legal
13 tests, and the City's ordinance must, therefore, stand.

14 THE COURT: Thank you, counsel.

15 Call your first witness.

16 MS. ALVAREZ: We would like to call Dr. Agapito
17 Lopez.

18 AGAPITO LOPEZ, called as a witness, having been duly sworn or
19 affirmed according to law, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. ALVAREZ:

22 Q. Can you tell us your address, please?

23 A. My address is 26 East Elm Street, Hazleton,
24 Pennsylvania, 18201.

25 Q. How long have you lived in Hazleton, Pennsylvania?

1 A. I lived approximately five years in Hazleton.

2 Q. Where did you live before Hazleton?

3 A. I lived in Dallas, Pennsylvania, which is about
4 30 miles north of Hazleton, right next to Wilkes-Barre.

5 Q. During what years did you live in Dallas?

6 A. I lived in Dallas from 1992 up to 2001.

7 Q. When did you move to Hazleton?

8 A. I moved to Hazleton in 2001.

9 Q. Why did you move to Hazleton?

10 A. I moved in Hazleton because my wife works in the
11 migrant education program, and she has been working there
12 since we moved to Dallas in 1992.

13 THE COURT: When did you move to Hazleton?

14 THE WITNESS: I moved to Hazleton in 2001.

15 THE COURT: Thank you.

16 BY MS. ALVAREZ:

17 Q. You were saying before why you moved to Hazleton.

18 A. Yes. My wife has been working with the migrant
19 education program. This is a program that helps the sons and
20 daughters of migrant family workers when they move into the
21 area to collect the crops, and she has been doing that work
22 for 15 years in Hazleton.

23 Q. How long have you been married to your wife?

24 A. 35 years.

25 Q. Where are you and your wife originally from?

1 A. Puerto Rico.

2 Q. When did you come to the United States?

3 A. We came to the United States in 1991.

4 Q. Why did you come to the United States?

5 A. I came to the United States because my sons and
6 daughters wanted to come to college here, and because I was
7 offered an opportunity to work in the States at that time.

8 Q. What work do you do, Dr. Lopez?

9 A. I'm an ophthalmologist. That is an eye surgeon.

10 Q. Where were you educated?

11 A. I was educated initially in the School of Medicine
12 of the University of Puerto Rico. I graduated from the
13 School of Medicine in 1971. I also obtained my bachelor's
14 degree in science in the University of Puerto Rico in 1965.

15 At that time, I also obtained commission as a
16 second lieutenant through the ROTC program of the University
17 of Puerto Rico, and I went on to serve in the Army for
18 2 years as a second lieutenant, then as first lieutenant
19 during the Vietnam era.

20 After that, I went to medical school and graduated
21 in 1971, and then I did my internship in the San Juan City
22 Hospital in 1971, 1972, and did my residency in ophthalmology
23 in the University of Puerto Rico and associated hospitals,
24 1972 to 1975.

25 Q. You mentioned your children earlier. How many

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1 children do you have?

2 A. I have five children.

3 Q. And were they educated in the United States like
4 you planned?

5 A. Yes. Most of them were in their higher education.
6 They did it here in the United States. My oldest is an
7 immigration agent working for the Homeland Security in

8 Chicago. He has a bachelor's degree in criminal justice.

9 My other daughter, she is a lawyer. She works in
10 Harrisburg in the Department of Education.

11 My other daughter, she has a master's in social
12 work. She works in Phoenix, Arizona in the school district.

13 My other daughter, she has education as a chef, and
14 she is a chef in a five star restaurant in Phoenix, Arizona.

15 My youngest is studying physical engineering in
16 Pensacola, Florida.

17 Q. You mentioned you practice ophthalmology. Are you
18 still practicing medicine?

19 A. No, I'm not.

20 Q. Why not?

21 A. I stopped practicing medicine because my population
22 is mostly Latinos in the area. I had a high overhead and had
23 a deficit in my income because of the malpractice insurance,
24 plus the overhead I had in my office. So I sublet my office
25 to the migrant education program.

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1 Q. Are you currently employed in something else?

2 A. Yes, I am. I am a reservation specialist in Hilton
3 reservations, and I am also a real estate salesperson in
4 Pecora Realty.

5 Q. Dr. Lopez, are you a member of any community
6 associations?

7 A. Yes. I am member of the Pennsylvania Statewide
8 Latino Coalition, the Governor's Advisory of Latino Affairs.
9 I'm a board member of the Hazleton City Authority. I'm vice
10 president of Hazleton Area Latino Association. I am a
11 founder of the Pennsylvania Statewide Latino Coalition.

12 Besides that, I have participated in about 15 or 20
13 other organizations and committees in the City of Hazleton
14 and in the Luzerne County.

15 Q. You mentioned the Pennsylvania Statewide Latino
16 Coalition.

17 How long have you been a member of -- I will refer
18 to it as PSLC.

19 A. Yes.

20 Q. How long have you been a member of PSLC?

21 A. I've been a member of PSLC probably since the
22 meeting that we had in the basement of St. Gabriel's Church,
23 which that was about the 30th of July.

24 Q. Dr. Lopez, you testified earlier that you lived in
25 Dallas, Pennsylvania for a few years.

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1 A. Yes.

2 Q. Can you tell us exactly what years you lived in
3 Dallas?

4 A. I lived in Dallas from 1992 to 2001.

5 Q. And you also mentioned that Dallas was about a
6 30-mile drive to Hazleton?

7 A. Yes, about 30 miles. It is 27 miles to
8 Wilkes-Barre, and about 5 miles from Wilkes-Barre to the Back
9 Mountain, as they say in Dallas.

10 Q. Were you familiar with Hazleton at this time when
11 you resided in Dallas?

12 A. Yes. I came to Hazleton on weekends, because we
13 established some friends in Hazleton, and we came to visit
14 them. Among them, the pastor from Saint Gabriel's Church,
15 and also Mr. Lechuga, another of the earlier Latinos that

16 settled in the area.

17 Q. What was Hazleton like at that time?

18 A. Hazleton was like a ghost city. It had lots of
19 dilapidated buildings. The buildings that are now remodeled
20 were old, decrepit, lack of maintenance, and the stores that
21 are now flourishing on Wyoming Street were all boarded up and
22 they were empty. I could not see people walking in the
23 streets. This was a deserted city.

24 Q. Do you have a sense of the number of Latinos living
25 in Hazleton at that time?

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1 A. I think there were like a handful. I know the
2 Lechugas. I know the Tulas. I know a Puerto Rican family
3 that has lived there for a long time, the Valases. I could
4 just see that they were of just a handful of Latinos in the
5 City at that time in '92.

6 Q. And when did the Latino population in Hazleton
7 begin to grow?

8 A. Well, the Latino population that came to Hazleton
9 were mainly farm workers, and these farm workers would bring
10 their children with them, and my wife would give them service
11 of the children of these farm workers, and they grew very
12 slowly. They were mostly Mexicans.

13 The first wave of immigration that we had were
14 mostly Mexicans that just came to pick up the crops, and they
15 were the clients of Mr. Lechuga, because he sold to these
16 people the food and groceries.

17 This kept increasing slowly, because with this
18 migrant wave of population, some of them go back home and
19 some of them preferred to stay. The ones that preferred to

20 stay in Hazleton, they stayed in Hazleton, and the population
21 grew slowly until 2001.

22 Q. what happened in 2001?

23 A. In 2001, as everybody knows, there was a 9/11
24 disaster in the Twin Towers, and this scared a lot of people
25 that lived in New York, as well as there was a rise in the

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1 rent in New York City at that time.

2 with most of the people in New York City and New
3 Jersey seeing that there was low-priced properties in
4 Hazleton -- most of the graduates from Hazleton went
5 elsewhere, so there was a definite a decrease in the
6 population -- they saw an opportunity to move here to have a
7 better life for their family and to be able to work, because
8 there was work available here, there was low income houses
9 available in Hazleton.

10 So many Dominican families at that time and some
11 Puerto Ricans came from New York City and New Jersey and
12 moved into Hazleton.

13 Q. And during this time after 9/11, can you describe
14 what happened? Can you describe the growth of businesses in
15 Hazleton at this time?

16 A. Well, most of the ones who came were very
17 entrepreneurial people. They wanted to establish businesses,
18 particularly bodegas, what we call little drugstores, mom and
19 pop drugstores, hairdressers and people that work with credit
20 cards and sending money back home, what we call
21 multi-services. All of these businesses sprout up, and they
22 populated the empty spaces that were available on Broad
23 Street and on Wyoming Street, which are the streets that

24 divide north and south and east and west in the City.

25 Q. Now, were these businesses being opened by Latinos

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1 or non-Latinos?

2 A. Most of them were opened by Latinos, but then some
3 non-Latinos, when they saw the growth of the area, were
4 stimulated. So they started remodeling the buildings. The
5 big marble building, the tallest building in the City,
6 started to be remodeled. The drugstores -- there started to
7 be new drugstores. The car dealers started to multiply. The
8 grocery store had to do an amplification in their store, the
9 Giant grocery store.

10 So the business started to boom at that time in the
11 City, and there were about 70 Latino businesses that were
12 established at that time between 2001 and 2005, more or less,
13 in the City.

14 Q. Can you describe for us what the relationship was
15 at this time, in the 2001, 2002 time frame, between Latinos
16 non-Latinos in Hazleton?

17 A. The relationship was cordial. The Latinos and
18 non-Latinos, we would get along very well. We didn't have
19 any problems, and I entered into many different organizations
20 at that time, and there was no problems between the Latinos
21 and the rest of the population.

22 Of course, everybody has some prejudice, and this
23 is something that you cannot erase from the earth, but the
24 prejudices were kept at the minimum and the cooperation
25 between one side of the population and the other was good.

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1 So there was no division at all, and we all worked together
2 for the better of our City. I organized a couple of
3 organizations of Latin American flags in two of the fun
4 feasts, which is the big festival, and we were greeted and
5 received by the rest of the population with joy and with
6 acceptance.

7 Q. As you know, at issue in this litigation are three
8 ordinances passed by the City of Hazleton.

9 when did you first hear about these ordinances?

10 A. Well, I was on a trip. It was a trip organized by
11 the Hazleton City Authority. We were attending a seminar, a
12 meeting of the water companies around the United States in
13 San Antonio, Texas.

14 I took the time in the trip to visit my son in
15 Chicago. So I stayed there during the weekend, and when I
16 came back from my trip, I found that they already had -- that
17 was the 18th of July that I returned. That was a Sunday. I
18 returned to -- I returned the 18th of July. I think it was
19 of July. I think -- I think it was 18th of June that I
20 returned from that trip, and then the law had been passed.

21 The first reading had been passed when I arrived,
22 the Thursday before. I arrived on a Sunday. So when I
23 arrived on that Sunday, the 18th of June, I was greeted with
24 the news that this ordinance had been presented in the City
25 Council of Hazleton.

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1 I was appalled, because I had not received any
2 notice from the City Council or from the Mayor, and I had met
3 with them 2 months ago on their behalf, because they wanted

4 me to be part of the Hazleton City Authority, and I sat with
5 them. I sat with the councilmen. I sat with the Mayor so
6 they would further my nomination to be part of the Hazleton
7 City Authority, and they didn't mention that. That was
8 around April 20th when I met with them in a restaurant in
9 town.

10 So I was very surprised and I was also very
11 offended by this ordinance that came out of nowhere.

12 Q. Could I ask you, why were you offended?

13 A. I was offended because they were restricting the
14 laws of occupancy of homes and the laws of being able to work
15 to many of the immigrant workers, and I hadn't seen this
16 before, and I thought this was against their constitutional
17 rights.

18 So I was moved to do something about this, because
19 it was hurting my people. Latinos are a family, and what
20 happens to one happens to all of us. We have a sense of
21 family, and the sense of family is what rules our lives.

22 Q. So what did you do after you heard about the
23 ordinances?

24 A. I started to seek orientation, because I'm not a
25 politician, and I don't know how to fight a political move

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1 like this. So I had to search other people that have dealt
2 with this. So I went to PSLC and asked them for advice,
3 because PSLC is a huge organization that is a coalition of
4 most of the Latino organizations in Pennsylvania. So I
5 thought that they may have some knowledge about this.

6 I contacted the Department of Justice, the person
7 of Ben Lieu, B-E-N-L-I-E-U, which is one of the community

8 coordinators of the Department of Justice in Harrisburg. I
9 contacted Norman Bristol Colon, who is the Director of the
10 Governor's Advisory Commission on Latino Affairs.

11 I contacted different other organizations, like
12 Congresso, who is also a longstanding Latino organization, so
13 that they would orient me on what to do.

14 I also contacted the Pennsylvania Human Relations
15 Commission to help me see how -- what I could do under the
16 law to be able to oppose this ordinance. So we got together.

17 Sorry about the lengthy explanation.

18 Q. Let me take it back a few steps. You mentioned
19 that you contacted PSLC?

20 A. Yes. Yes, ma'am.

21 Q. What resulted out of that contact?

22 A. What resulted in that contact, we decided to do a
23 meeting together, and on the advice of Pennsylvania Human
24 Relations Commission, they said --

25 MR. MAHONEY: Objection, Your Honor. He's now

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1 offering hearsay testimony.

2 THE COURT: Sustained.

3 MS. ALVAREZ: Your Honor, may I be heard?

4 THE COURT: Yes.

5 MS. ALVAREZ: He is offering testimony to show what
6 was said, what advice was given, not that the advice was true
7 or correct.

8 THE COURT: Sustain the objection. Rephrase your
9 question.

10 BY MS. ALVAREZ:

11 Q. Let's talk about PSLC.

12 After you contacted PSLC, did you meet with anyone
13 at PSLC?

14 A. Yes. I meet with Jose Molina.

15 Q. What was the subject of that meeting?

16 A. I told him the feelings that I had about this
17 ordinance and how about it is -- it was violating the
18 constitutional rights of the people of Hazleton.

19 In that way, he offered me his advice on how to
20 deal with this, and we decided to do a meeting together.

21 Q. Did you hold that meeting?

22 A. Yes. I held that meeting, and that was the first
23 meeting of the Hazleton Area Latino Task Force. The Hazleton
24 Area Latino Task Force was formed under the advice of the
25 Pennsylvania Human Relations Commission, and it was under the

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1 advice of Jose Molina of PSLC.

2 So at that time we made a community meeting, a
3 meeting in the basement of Saint Gabriel's church. That was
4 the 30th of July.

5 Q. What was the result of that meeting on the 30th of
6 July?

7 A. Okay. Probably about 60 persons from Hazleton
8 assisted that meeting, and many persons of the persons from
9 Hazleton, perhaps about 20, registered as members of PSLC,
10 including myself, in that meeting, and we explained to the
11 people of Hazleton what was the meaning of this ordinance.

12 Q. Now I want to take you to the days before the City
13 Council second reading of the ordinances.

14 what happened to you the day before the hearing?

15 A. well, the day before the hearing, we scheduled a

16 candlelight vigil in front of the steps of the City Council,
17 a peaceful vigil, in which I asked for the orientation of
18 Chief Ferdinand from the Hazleton Police Department, who has
19 been very helpful to me in the organization of these meetings
20 that I have held in Hazleton, and also Ben Lieu, which is the
21 community coordinator for the Department of Justice.

22 Q. Did you receive anything in the mail the day before
23 the meeting?

24 A. Yes. I received a piece of documents that were
25 slipped under the door of my office.

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1 Q. And without describing the contents, I don't want
2 you to describe what the document says, how would you
3 characterize that document?

4 A. It was hate mail.

5 MS. ALVAREZ: I just would like the record to
6 reflect that based on the Court's ruling this morning, we
7 will not go into the details of this hate mail at this time,
8 but we may intend to call Dr. Lopez back onto the stand later
9 in the trial.

10 BY MS. ALVAREZ:

11 Q. Now I would like to discuss with you what it was
12 like at that second hearing the day at City Hall.

13 Can you first tell us what it was like outside of
14 City Hall when you arrived?

15 A. Outside the City Hall, there was a lot of tension
16 built up. I had already coordinated with Chief Ferdinand for
17 the police to give protection to the people that were going
18 to be there for the hearing and with the Department of
19 Justice so that there will not be any incidents at the time.

20 I authorized Chief Ferdinand to take videos of the
21 people in the meeting so that if anything would come up, we
22 would have some evidence to show, and we circulated leaflets
23 inviting the community of Hazleton to be present in the
24 second reading of this document.

25 Q. What was the mood of the crowd? What did you see

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1 in the crowd outside before you went to the City Hall?

2 A. I saw a lot of fear from some people. Some of the
3 people there were very fearful. They came to me and said,
4 look, the police is taking videos. I said, I authorized them
5 for that. It is no problem. You know, it is in case we get
6 attacked, we can show some videos on what happened and we can
7 identify the people that attacked us.

8 we were afraid because there was another group that
9 was intimidating us at that time by showing their presence,
10 shouting slogans, and a lot of tension in the area.

11 we had sisters of the Immaculate Heart of Mary
12 there, and we had a priest, Father Rose from the Catholic
13 church, and we also had ministers, Minister McCivey from the
14 nearby church with us at that time, in a way as to do a
15 demonstration which was really a prayer vigil instead of
16 something that would further any violence in the area.

17 Q. When you went into City Hall the day of the second
18 hearing, what was the crowd like inside of the City Hall?

19 A. Inside of City Hall, there was a majority of the
20 other immigrants, and there was a minority of the recent
21 immigrants on the other side.

22 The other immigrants were very applauding at the
23 entrance of the Mayor. They were, you know, very, very tense

24 with stares at the small group of Latinos that were there
25 and --

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1 THE COURT: Excuse me. I don't understand. You
2 say other immigrants were inside. They were not Latinos.

3 THE WITNESS: We are all immigrants. So we were
4 just the last wave of immigrants.

5 So the other immigrants, I cannot say white,
6 because the other immigrants are not all white. I cannot say
7 Anglos, because the other immigrants are not all Anglos. I
8 have to say the earlier immigrants. I'm sorry about the
9 terms I am using.

10 THE COURT: Thank you.

11 THE WITNESS: Thank you, Your Honor.

12 BY MS. ALVAREZ:

13 Q. After the second reading, what was the mood like
14 outside of City Hall when you left?

15 A. Well, what happened was a following. You know, we
16 were in the hearing, and, of course, it was all -- the
17 ordinance passed very smoothly.

18 After, you know, they heard our testimony, and what
19 happened, someone came into the hearing to tell me there was
20 a fight going on outside. That was one of the things that I
21 feared the most, that there would be a confrontation in front
22 of the courthouse.

23 So I immediately went out. Anna Arias, which was
24 with me, immediately went out before the hearing was over,
25 but after the votes had been casted, and to try to stop

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1 whatever they said was a fight that broke out.

2 Q. What did you see in the crowd?

3 A. I see in the crowd that at the time I didn't know
4 what happened in the interim, but there was a line in --
5 there was a line of policeman in the middle of the street:
6 Federal justice agents, department of justice agents and
7 policemen in the street dividing two groups.

8 There was a group of mostly the latest immigrants
9 on one side and the oldest immigrants on the other side, and
10 there was shouting from one side to the other side, and there
11 was a response of shouting from the side of where most of the
12 Latinos were to the other side and where the priest and the
13 nuns were.

14 There was one person that was not in the other side
15 where he was supposed to be, and he came in the papers with
16 waving a large American flag and a sign that says, thank the
17 Marines.

18 At that time one of the people of the Latino crowd
19 or the earliest immigrants came over and told this gentleman,
20 whose name is like the piano player Roger Williams, he told
21 that individual that many Latinos have fought with Marines
22 and many Latinos have died with Marines in the war, and he
23 started to get too close. So I told him to go away, and I
24 instructed most of the crowd that was in the steps to go back
25 home, because I didn't want any confrontation.

□

1 Q. What did you receive a few days after that second
2 reading when the ordinances were enacted?

3 A. I received a letter.

4 Q. And again, don't describe the contents, please,

5 just how would you characterize it?

6 A. It was a letter directed to my office and it had --
7 it was a hate mail propaganda.

8 Q. Well, you already testified about two pieces of
9 hate mail.

10 Did you receive any other pieces of hate mail?

11 A. I received a third piece of hate mail at my home,
12 at my home address, with also racist white supremacy
13 propaganda.

14 MR. MAHONEY: Objection, Your Honor, violating the
15 Court's order.

16 THE COURT: Well, I will sustain the objection.

17 THE WITNESS: I'm sorry, hateful mail. Please
18 correct that. I'm sorry, sir.

19 BY MS. ALVAREZ:

20 Q. Dr. Lopez, what did these three pieces of mail that
21 you received, what did it make you think about the community?

22 A. Well, the first thing, I was fearful because those
23 three pieces of mail that I received told me that some of the
24 people that are against me knew where I had my office and my
25 wife has her office and they knew where I lived, my

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1 residence, my place of residency.

2 The other thing was that I felt -- besides being
3 fearful, I felt offended, because it was hate mail. It
4 indicated hate against me as a person. So I was concerned
5 about that.

6 Q. Let's now discuss some of the effects of the
7 ordinances.

8 A. Yes, ma'am.

9 Q. Generally speaking, can you describe for us what
10 effects the ordinances have had on the City of Hazleton, in
11 your opinion?

12 A. I think the ordinances have provided the division
13 between the population of Hazleton which once coexisted
14 harmoniously. It has raised a lot of fear not only on the
15 immigrants, on the immigrant workers, but also on the owners
16 of businesses and the owners of real estate that were going
17 to rent, and not to talk about the fear of the tenants of
18 these rental places.

19 Q. And with respect to the fear of the tenants, what
20 has resulted because of that fear?

21 MR. MAHONEY: Objection, Your Honor, lack of
22 foundation.

23 THE COURT: Well, we will overrule that. I think
24 we best consider that, take it under consideration, subject
25 to it all being substantiated.

□

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1 I noticed much of the testimony in the case on both
2 sides has to do with this type of testimony. So I think it
3 may be relevant and fundamentally sufficient. We will
4 consider each one of the witness' testimony in turn and
5 assess the value of the evidence and the credibility of the
6 witnesses, but it's certainly premature to conclude that the
7 witnesses cannot provide personal knowledge of the impact of
8 these things of the ordinances on these people.

9 So we're going to entertain that, subject to it all
10 down the line being substantiated.

11 BY MS. ALVAREZ:

12 Q. Dr. Lopez, my previous question I believe was, what
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13 effect did this fear that you believe existed in the people
14 of Hazleton, what effect did this fear have in the tenants?

15 A. It raised a lot of fears, because there is not a
16 simple way to identify an undocumented immigrant, and they
17 felt that they may be unjustly evicted, or they feared that
18 they may be unjustly denied to be in a rental property.

19 Q. How do you know this?

20 A. I have personal knowledge of my -- I am -- in spite
21 of what they say, I am a leader in Hazleton and I am -- was
22 the only Hispanic doctor in downtown that they could go to
23 when they wanted anything, and my office was together with
24 the office of my wife, so we got all the immigrant population
25 coming into our office in the center of Broad Street.

□

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1 So I had contact with these people. I could see
2 their anguish. I could see their fear. I could hear their
3 worries. You know, it is something that you feel in your
4 heart.

5 Q. Can you give us a few examples of any businesses or
6 people that you believe have been harmed by the ordinances?

7 A. Well, certainly the biggest example is my friends
8 the Lechugas. The Lechugas have been working hard since they
9 came here, and they were the first families that came to
10 Hazleton, and they worked hard for having their grocery store
11 and being able to have a place close to live to their grocery
12 store, and after that they worked hard to get their
13 restaurant.

14 They lost the restaurant. They lost the grocery
15 store. They lost the place where they lived, because they
16 were not having income, because the people were going out of

17 the City, mostly the Mexican people which they served.

18 The other example is El Manyel store, which is a
19 store that is on Broad Street. I talked personally with
20 Franklin, which is the son of the family that owns that
21 store, and he told me how --

22 MR. MAHONEY: Objection.

23 THE WITNESS: I'm sorry, hearsay.

24 MR. MAHONEY: I understand Your Honor's desire to
25 give a little bit of latitude, but when he says he told me,

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1 that is hearsay in a classic sense.

2 MS. ALVAREZ: May I respond?

3 THE COURT: You can respond.

4 MS. ALVAREZ: Your Honor --

5 THE COURT: We have so many lawyers here, I cannot
6 keep it straight.

7 Mr. Mahoney now is going to do all the cross of
8 this witness, and I will only hear a rebuttal from
9 Ms. Alvarez.

10 MS. ALVAREZ: Your Honor, these statements are
11 being offered to show the fear that these people feel in the
12 community and state of mind and how --

13 THE COURT: Overrule the objection.

14 Go ahead.

15 BY MS. ALVAREZ:

16 Q. You were talking about El Manyel store, I believe
17 you called it.

18 A. Yes.

19 I could see the fear in his eyes. I could see that
20 these American citizens, Dominican American citizens were

21 going out of the town, that they were providing some valuable
22 services in their grocery store, as well as they had about
23 three rental properties in the City. They were selling their
24 store and they were selling their properties and getting out
25 of the City because of the hateful atmosphere that was

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1 produced by this ordinance.

2 Q. And why do you believe that this hateful atmosphere
3 was produced by the ordinances?

4 A. It made the lives of the newcomers in Hazleton
5 unbearable because of the encounters on the street, because
6 of the shouting, because of the bad stares that they were
7 having. I felt that personally, you know, when I was walking
8 around town, people would stop and stare.

9 Q. You also a little while ago mentioned that the
10 ordinances caused a division in the community.

11 Can you explain to us what you mean by that?

12 A. Our relationships with the rest of the community
13 was very friendly. My relationship with my neighbors was
14 very cordial.

15 After the ordinance, the relationship with my
16 neighbors became a little bit cold. We used to laugh and
17 say, you know, things about the community, and suddenly, they
18 went aside. They are not relating as well to me as they did
19 before, and this has happened to many of the other people in
20 Hazleton.

21 Q. Can you tell us as a result of these ordinances,
22 what is the mood?

23 what is going on in the Latino community right now,
24 in your opinion?

25 A. Well, I have been approached by many, and they are

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1 very, very fearful. They are very unsteady as to what the
2 future will be in the town.

3 Some of them are -- you can see the hate in their
4 eyes, and you can see that they don't feel at ease. There
5 has been a tension created in town with all of the media
6 publicity, with all the repetition, repetition, repetition of
7 the same things that have raised this sense of fear in me as
8 to all the families that are leaving town.

9 I have seen families leaving town that were
10 providing services that were my friends. I have seen them
11 packing up in little pickups and going out of town.

12 MS. ALVAREZ: I have no further questions right
13 now.

14 THE COURT: Cross-examine.

15 CROSS EXAMINATION

16 BY MR. MAHONEY:

17 Q. Dr. Lopez, you're originally from Puerto Rico,
18 correct?

19 A. Yes.

20 Q. As a person born in Puerto Rico, you are a natural
21 citizen of the United States, are you not?

22 A. Yes.

23 Q. So when you refer to yourself as an immigrant,
24 you're not really saying that you're not a U.S. citizen
25 originally when you came to this country, are you?

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1 A. No, I'm not.
2 Q. You never had to adjust your status, have you?
3 A. No. No, sir.
4 Q. You are not an immigrant under U.S. law, are you?
5 A. No. No, I'm not. I'm a U.S. citizen.
6 Q. Sir, until these ordinances were enacted, you were
7 a supporter of Mayor Louis Barletta, were you not?
8 A. Yes, I was.
9 Q. You observed in the five years that you were a
10 resident of the City of Hazleton, prior to the enactment of
11 the ordinances, that the Mayor welcomed immigrants of all
12 ethnicities and all backgrounds, isn't that correct?
13 A. Yes, that is correct, sir.
14 Q. You believe that the Mayor in welcoming immigrants
15 was doing the right thing, correct?
16 A. Yes.
17 Q. And you saw a revitalization of the downtown area,
18 the ghost town that you had described in your early
19 testimony, when the immigrants came in and refurbished the
20 businesses, refurbished the buildings, that is a good thing?
21 A. That's a good thing, as Martha Stewart would say.
22 Q. And it was encouraged by this gentleman here, Mayor
23 Barletta?
24 A. Yes, sir.
25 Q. You recall an incident, sir, when a friend of yours

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1 approached you and said, Agapito, we need to help the Latino
2 children with some kind of activity in the summertime. Can
3 you speak with Mayor Barletta for me and see if we can get
4 some fields for the Latino children to get them off the

5 streets in the summertime, do you recall that?

6 A. Yes, sir.

7 Q. And Mayor Barletta, not to use the baseball analogy
8 too much, went to bat for you, didn't he?

9 A. Yes. He helped -- he helped us in this quest for
10 getting a place for children to play.

11 Q. And this was primarily to benefit Latino children,
12 correct?

13 A. Yes, sir.

14 Q. And, again, you thought that was a terrific thing
15 that the Mayor did in helping the children of the Latino
16 community find a place to play baseball in the summertime?

17 A. Yes, sir.

18 Q. And you know about the Pine Street playground,
19 don't you?

20 A. I'm sorry?

21 Q. You know about the Pine Street playground?

22 A. Yes, sir.

23 Q. And you're aware that when you first moved into
24 town that this little sorry park had fallen down on hard
25 times, isn't that right?

□

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1 A. Yes, sir.

2 Q. And you're also aware that Mayor Barletta, through
3 his efforts going door to door in that particular community,
4 determined what needed to be done to revitalize that
5 particular playground, isn't that correct?

6 A. I don't know about door to door, but I know that he
7 started fixing.

8 Q. You know he spearheaded the project and put a half

9 a million dollars into that particular playground, isn't that
10 right?

11 A. I don't know that. I don't know the finances.

12 Q. Where is that playground? That playground is
13 located in a Latino neighborhood, is it not?

14 A. Well, if you call downtown the Latino neighborhood,
15 yes.

16 Q. I'm asking you because you live there, sir.

17 A. Yes. That is my neighborhood, but it is not
18 entirely Latino.

19 Q. When an opening came up on the Hazleton Water
20 Authority, Mayor Barletta and council president, Joseph
21 Yanuzzi, came to you, because they knew you were a prominent
22 member of the community, Latin or otherwise --

23 A. Yes, sir.

24 Q. -- and asked you to become a member of that
25 authority, isn't that right?

□

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1 A. Yes, sir.

2 Q. And they supported your nomination before City
3 Council?

4 A. Yes, they did.

5 Q. So up until the point in time when the ordinances
6 were passed, you had nothing but good relations with the City
7 of Hazleton?

8 A. That is correct.

9 Q. Nothing but good relations with Mayor Barletta?

10 A. That is correct.

11 Q. And you applauded all the efforts you made not only
12 on behalf of the City, but on behalf of the Latino community

13 in particular?

14 A. Yes, I did.

15 Q. Is it fair to say, Dr. Agapito, that from your
16 perspective, everything that you had experienced up to the
17 time of the ordinances demonstrated support for all
18 immigrants in Hazleton, including Latino immigrants?

19 A. Yes, sir.

20 Q. Now, if I recall your testimony correctly on
21 direct, you indicated that you first heard about the
22 ordinances when you had come back from a trip to the midwest,
23 I believe?

24 A. Yes, from Texas.

25 Q. You stopped off in Chicago to see your son?

□

89

1 A. Yes, sir.

2 Q. When you returned, you found out about the
3 ordinances being considered by council?

4 A. Yes, sir.

5 Q. Now, the first reading of the ordinances was on
6 June 15th, 2006, isn't that correct?

7 A. Yes, sir.

8 Q. And you returned several days later, and as soon as
9 you heard about the ordinances, you decided to oppose them,
10 didn't you?

11 A. Yes, I did.

12 Q. Now, your opposition took many forms.

13 Initially, you passed out fliers condemning the
14 ordinance, correct?

15 A. Yes, sir.

16 Q. You advised the Governor's Commission for Latino

17 Affairs about the ordinances and your opposition to them?

18 A. Yes, sir.

19 Q. You called upon the Pennsylvania Statewide Latino
20 Coalition to oppose the City?

21 A. Yes, sir.

22 Q. You formed the Hazleton Area Latino Task Force to
23 oppose the City?

24 A. Yes, sir.

25 Q. And you formed the Northeast Latino Coalition to

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1 oppose the City, correct?

2 A. No.

3 Q. You didn't form it?

4 A. Well, I did form it, but it was not to oppose the
5 City.

6 Q. Well, was one of its objectives to oppose the
7 ordinances?

8 A. No. Can I explain?

9 Q. Go right ahead.

10 A. The Northeast Latino Coalition was made very
11 recently in the past couple of months, and the Northeast
12 Latino Coalition, the purpose of it was to get together the
13 Latino organizations in the Northeastern part of Pennsylvania
14 and not to oppose the ordinance.

15 Q. But the Northeast Latino Task Force has, in fact,
16 opposed the ordinance?

17 A. Yes. Two different organizations.

18 Q. With your encouragement?

19 A. Yes, sir.

20 Q. The Hazleton Hispanic Business Association, you

21 were one of the founding members of that, were you not?

22 A. No, I was not, but I was one of the members that
23 were in the first meetings.

24 Q. You were the first members of it?

25 A. Yes, but I was not the organizer.

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1 Q. You went to the first meeting?

2 A. Yes, sir.

3 Q. And part of the purpose of that particular
4 organization was to oppose the ordinances?

5 A. Well, the purpose was to think about what to do on
6 the effect that the ordinance has done on the commercial
7 properties in the area.

8 Q. Sir, do you believe that the ordinances that have
9 been enacted by the City are anti-immigrant?

10 A. Yes, sir.

11 Q. You do?

12 A. Yes, sir.

13 Q. What other immigrant groups did you reach out to
14 during your opposition to oppose the ordinance?

15 A. Well, the vast majority of immigrant groups that
16 are in the City are Latino immigrants.

17 Q. There is a significant Romanian immigrant
18 population in the City, isn't there?

19 A. Yes, but they are hidden in the rest of the
20 population.

21 Q. So the only groups that you ever contacted to
22 oppose the ordinance to encourage them to oppose the
23 ordinance were Latino groups?

24 A. Yes, because they would be the ones to fight back.

25 Q. Sir, it is true that you only work with Latino

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1 groups because you believe that Latinos should remain
2 separate and apart from Anglos in the City of Hazleton, isn't
3 that correct?

4 A. That is false.

5 Q. You recall, sir, going to a meeting on July 13th,
6 2006, at City Council when there was a second and third
7 reading of the ordinance?

8 A. Yes.

9 Q. And you and other members of the Latino community,
10 including Anna Arias, spoke out against the ordinance, isn't
11 that right?

12 A. Yes, we did.

13 Q. And you recall at that particular time, sir,
14 standing up and boldly stating in front of City Council, we
15 will never assimilate?

16 A. Yes, sir, and I qualified that answer.

17 Q. And when you said, we will never assimilate, you
18 meant that the Hispanic community would not assimilate
19 itself, become part of the regular community, the existing
20 community in the City of Hazleton, isn't that right?

21 A. Can I elaborate on that answer, please?

22 THE COURT: Just answer yes or no, and then you can
23 explain briefly.

24 THE WITNESS: No.

25 THE COURT: Now you can explain.

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1 THE WITNESS: Can I explain?
Page 80

2 THE COURT: Sure.

3 THE WITNESS: Thank you, Your Honor.

4 There was a big ruckus held about the semantics of
5 assimilation.

6 Assimilation means dissolving in or blending in or
7 being like part of the big mix of the population.

8 A cultururation, as I explained in that meeting,
9 means to take an additional culture, take the additional
10 elements of that culture and make them part of yourself
11 without losing your original background, without losing your
12 original language, without losing your original customs,
13 rather than eating food.

14 BY MR. MAHONEY:

15 Q. Dr. Lopez, you took it upon yourself upon learning
16 about the ordinances to become the voice of the Latino
17 community, did you not?

18 A. No.

19 Q. Well, you spoke out against the ordinance at City
20 Council. You organized fliers. You organized a vigil. You
21 got all these Latino organizations that you were a member of
22 or founded to oppose the ordinance, didn't you?

23 A. Can I --

24 Q. Did you, yes or no?

25 A. No.

□

1 Can I elaborate?

2 THE COURT: You may.

3 THE WITNESS: I may elaborate?

4 THE COURT: You may give an explanation.

5 THE WITNESS: I did not throw myself to be a
Page 81

6 leader. I throw myself out, because, No. 1, I was nominated
7 to be the commissioner for the governor of Pennsylvania for
8 the Counties of Luzerne and Lackawanna, and in that position,
9 I was the only person that would be able to represent the
10 Latinos in the area. That is the first one.

11 The second one is that someone had to do something,
12 and I felt the responsibility for talking for those who could
13 not talk. I took the responsibility of defending those who
14 could not defend themselves. So that was the reason of my
15 exposure to the media. That was the reason of my exposure
16 and working with the community to see if I could erase this
17 wave of hate that was raised by this ordinance.

18 BY MR. MAHONEY:

19 Q. It was a wave of hate that you perceived, correct,
20 sir?

21 A. Yes, sir.

22 Q. A wave of hate that followed your determination
23 upon hearing about the ordinance that it was wrong, and you
24 made a commitment to oppose that ordinance with every effort
25 that you could possibly muster up, isn't that correct?

□

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1 A. Yes, sir.

2 Q. You indicated that you had organized this prayer
3 vigil?

4 A. Yes, sir.

5 Q. And that was at the time of the reading on the
6 second and third occasions in City Council on July 13th,
7 right?

8 A. Yes, sir.

9 Q. Chief Ferdinand, who is the chief of police of the
Page 82

10 Hazleton Police Department, is the individual that you have
11 worked with, not only on the vigil, but on other projects, to
12 make sure that you and your supporters are safe?

13 A. Yes, sir.

14 Q. And Chief Ferdinand has been cooperative with you
15 100 percent of the time, has he not?

16 A. 100 percent of the time.

17 Q. So he made sure that at the prayer vigil on July
18 13th, 2006, that you were able to exercise your
19 constitutional rights to protest the ordinance, which is your
20 right under the Constitution, right?

21 A. Yes, sir.

22 Q. And he did a good job with that?

23 A. Excellent job.

24 Q. When those police officers were in the street
25 between your group and the group opposed to you, those police

□

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1 kept order?

2 A. Yes, they did.

3 Q. You were very complimentary of Chief Ferdinand for
4 doing that?

5 A. I was.

6 Q. And later on when you organized a rally in
7 September, you also went to Chief Ferdinand and said to him,
8 can you help us out in planning this rally so that all the
9 people who show up, whether they are with us or against us,
10 are safe?

11 A. Yes, I did.

12 Q. And he did everything possible to make that happen,
13 correct?

14 A. Yes.

15 Q. And everything went smoothly?

16 A. Everything went very smoothly. He went out of his
17 way to help me.

18 Q. Dr. Lopez, at the rally in September, you invited
19 people from other cities to attend, did you not?

20 A. Yes, I did.

21 Q. You invited people from as far away from New York
22 City, Washington, D.C., and Philadelphia, is that right?

23 A. Yes. As a member of PSLC, we have all these
24 different memberships from all the other parts of the state.

25 Q. And you had contacts with people in other states,

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1 in other cities?

2 A. Sure. I acquire this by being a member of PSLC and
3 by establishing connections with different people from
4 different Latino organizations in the area.

5 Q. Now, when we spoke last Thursday at your
6 deposition, you told me, and I think you recall this, that
7 between 100 and 300 people showed up at the rally, is that
8 right?

9 A. Yes, sir.

10 Q. And of those 100 to 300 people, you estimated that
11 half of them were from these other places, not Hazleton?

12 A. Yes, sir.

13 Q. Now, if I recall your earlier testimony, as many as
14 10,000 people in the City of Hazleton are Hispanic?

15 A. Yes, sir.

16 Q. And of those 10,000 Hispanic and Latino people in
17 the City of Hazleton, only 150 of them came out to your rally

18 in September to support your opposition to these ordinances,
19 is that right?

20 A. Yes, sir.

21 Q. You indicated on your direct testimony that you
22 believe certain businesses are not doing well in the City of
23 Hazleton?

24 A. Yes, sir.

25 Q. In fact, you said that Latinos businesses have

98

1 suffered as a result of the ordinances?

2 A. Yes, sir.

3 Q. Are you aware, sir, that since the ordinances were
4 originally considered, there have been a considerable number
5 of businesses which have opened up in the City of Hazleton?

6 A. I'm sorry. Can you repeat that question?

7 Q. Certainly. Are you aware, sir, that since the
8 enactment of the ordinances, there have been a number of
9 businesses which have opened up in the City of Hazleton?

10 A. There are some businesses that have opened up, yes.

11 Q. In fact, there are approximately 30 new businesses
12 that are owned and operated by Hispanics and Latinos in the
13 City of Hazleton?

14 A. You mean 30 new businesses?

15 Q. Thirty new businesses.

16 A. I don't know about the statistics, but I know some
17 have shown up and placed their businesses there. The
18 propaganda has been very good through the news media and
19 nationally.

20 Q. The propaganda?

21 A. Yes. There is a lot of advertisement in the news

22 media about Hazleton, about what a nice place it is to live,
23 and this has attracted many people all through the nation,
24 and some of them Latinos to establish their businesses here.

25 Q. Well, do you know that on June 13th a zoning

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1 application -- I'm sorry -- on June 14th a zoning application
2 for the Institute of Learning was approved by the City of
3 Hazleton for a business that's run by a Hispanic individual?
4 Do you know the Institute of Learning?

5 A. I don't know it, but if you say so.

6 Q. How about Regina Rodriguez Dry Cleaners which was
7 approved on July 19th, are you aware of that business?

8 A. No.

9 Q. How about Franklin Munoz clothing store on June
10 29th?

11 A. Clothing store, oh, yes. Is that the one -- I
12 don't know where that is. I don't know the specifics about
13 all the businesses that have sprung up in Hazleton, because
14 I'm not in the City Hall.

15 Q. Sorry?

16 A. I'm not in City Hall, so I don't know about the
17 different businesses.

18 Q. But you're a member of the community, a prominent
19 member of the Hispanic community, and you, yourself, have
20 said that you're a leader in that community, and that is why
21 you're opposing the ordinances.

22 A. Yes, but I work. I am not all the time looking for
23 statistics.

24 MS. ALVAREZ: Objection, Your Honor.

25 Your Honor, Dr. Lopez has already testified that he
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1 is aware that new businesses have opened up in Hazleton. I'm
2 not sure it is necessary to go through the list.

3 THE COURT: Well, it is cross examination, but it
4 is noon, and we will recess at noon. We will pick it up from
5 there and recess until 1:30.

6 (At this time, a luncheon recess was taken.)

7 THE COURT: Proceed.

8 BY MR. MAHONEY:

9 Q. When we broke off this morning, we were discussing
10 new businesses that had opened up in the last couple of years
11 in the City of Hazleton.

12 A. Yes, sir.

13 Q. Are you aware of a new business called Michael's
14 Transportation Service or Michael's Taxi?

15 A. Yes. Yes, I am.

16 Q. You understand that Mr. Ludena asked the Mayor to
17 come to his ribbon cutting ceremony?

18 A. Yes.

19 Q. And Tax Works, which was opened in October of 2006,
20 the Mayor was also invited to that grand opening, is that
21 correct?

22 A. Yes.

23 Q. And Crystal Barbecue, another business owned by
24 Jose Esteves, the Mayor was invited to the grand opening of
25 that particular business, was he not?

1 A. He is a City figure, he should be.

2 Q. He is a City figure.^{lozanod1.txt}
3 And just in 2007 alone -- let me ask you if you are
4 aware of these particular businesses owned by Hispanics that
5 were opened in the City: TAHE Professional Cosmetics. Do
6 you know that business?
7 A. No.
8 Q. J & J Fish Market, Joaquin Fernandez?
9 A. Yes.
10 Q. La Ocoena Bakery, Melvin and Jose Castino?
11 A. Yes.
12 Q. And Cafe Santiago owned by Maxima Dominguez?
13 A. No.
14 Q. Sir, I want to make sure of one aspect of your
15 testimony. You're not suggesting to us that the
16 revitalization of the downtown area was strictly attributable
17 to Hispanics opening businesses, are you?
18 A. I beg your pardon. Can you repeat the question?
19 Q. Certainly. It was probably a poor question.
20 Are you telling the Court that the revitalization
21 of the downtown area of Hazleton was solely attributable to
22 Hispanics opening businesses ?
23 A. No, sir.
24 Q. You are aware, of course, that a man named Spears
25 who runs Hazleton Drugs, which is the oldest drugstore in the

□

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1 City, tore down and rebuilt it?
2 A. Yes.
3 Q. That added to the revitalization in the economy in
4 the City?
5 A. Yes.

6 Q. The Hayden family bought the tallest building and
7 invested millions of dollars in it?

8 A. Yes.

9 Q. And the downtown athletic club run by a man named
10 Charlie Palermo, he invested in the downtown area, took a
11 bank building and turned it into an athletic club?

12 A. Yes.

13 Q. And there are a number of factors which goes into
14 the revitalization of the downtown area, Hispanics, as well
15 as non-Hispanics, correct?

16 A. That is correct.

17 Q. One of the businesses you did talk about were the
18 businesses owned by Jose and Rosa Lechuga who are here in the
19 courtroom?

20 A. Yes, sir.

21 Q. You attribute the loss of their businesses to the
22 enactment of the ordinances, don't you?

23 A. Not necessarily. Due to the decrease in clients in
24 the store.

25 Q. You know that the Lechugas owned two separate

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1 businesses on North Wyoming Street, correct?

2 A. Yes, sir.

3 Q. The one which was the longstanding business was
4 Lechuga Mexican Products, which is the grocery store, were
5 you aware of that?

6 A. Yes, sir.

7 Q. And other one was Lechuga Luncheonette, which was a
8 restaurant?

9 A. Yes, sir.

10 Q. That was also on North Wyoming Street?

11 A. Yes, sir.

12 Q. Now, did you know at some point, Doctor, that the
13 Lechugas owned a second grocery store in a town called
14 Tamaqua?

15 A. Yes.

16 Q. And did the Lechugas share with you, sir, the fact
17 that that particular business had to be closed at the end of
18 2005 because it was losing money?

19 A. No.

20 Q. They didn't share that with you?

21 A. No, sir.

22 Q. And they didn't share with you the fact that they
23 lost their client base when there was a Federal raid on a
24 business which unearthed a number -- a considerable number of
25 illegal immigrants who were apprehended and deported?

□

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1 A. No.

2 Q. You weren't aware of that?

3 A. No, sir.

4 Q. You know that they lived at 121 North Wyoming
5 Street?

6 A. Yes, sir.

7 Q. And the building in which they lived had their
8 apartment on the second floor and their grocery store on the
9 first floor?

10 A. That is correct.

11 Q. And they owned that property, didn't they?

12 A. Yes, sir.

13 Q. Were you aware, Doctor, in February of 2006 when

14 the Lechugas opened their restaurant, that at that particular
15 point in time they were 12 months back on their mortgage
16 payments?

17 A. No, I'm not aware of that.

18 Q. Did you know at that point that they were in
19 arrears to a mortgage company to the tune of in excess of
20 \$10,000?

21 A. No, sir, I did not know that.

22 Q. Did they tell you that when they opened their
23 restaurant in 2006 that they took out a lease or they signed
24 a lease agreement for five years?

25 A. Well, I know they had a lease agreement with

□

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1 Umberto Hernandez.

2 Q. Did you know that lease agreement called for them
3 to pay \$1,000 a month in rental payments?

4 A. No, I don't know the details.

5 Q. Did you know that they had to put down \$1,000 in
6 escrow on that lease?

7 A. No, I didn't know that.

8 Q. Did they tell you they had to put down \$1,000 in
9 order to buy supplies, such as pots, plates and other things?

10 A. I didn't know.

11 Q. You were a business owner yourself?

12 A. I was.

13 Q. Do you think jumping in a new venture by putting in
14 \$3,000, when you're already \$10,000 in arrears in your
15 mortgage payment ^ , is a good business decision?

16 MS. ALVAREZ: Objection.

17 THE WITNESS: I'm not a businessman really. I'm

18 just a doctor. I cannot --

19 THE COURT: Just a minute.

20 MS. ALVAREZ: This is speculation, opinion
21 testimony. He owned an ophthalmology business.

22 THE COURT: I really didn't hear the question.
23 What are you asking him?

24 MR. MAHONEY: I was asking him if he thought it was
25 a good business decision, because he has been testifying

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1 before on direct examination that certain businesses in the
2 downtown area had closed.

3 THE COURT: It wasn't his decision.
4 Sustain the objection.

5 BY MR. MAHONEY:

6 Q. Dr. Lopez, there was a restaurant in the same
7 location as the Lechuga's Restaurant before the Lechugas
8 started there, isn't that right?

9 A. Yes, sir.

10 Q. And after they closed down, another restaurant went
11 into that location, a restaurant called Entre Nostros?

12 A. Yes.

13 Q. And that opened up in the fall of 2006, did it not?

14 A. Yes.

15 Q. And it is still opened today?

16 A. It is still opened.

17 Q. Have you ever frequented that particular
18 restaurant?

19 A. Yes, I have.

20 Q. You indicated the other day in our deposition that
21 the ordinances are having a negative impact on other types of

22 businesses in Hazleton, and you mentioned the wal-Mart,
23 businesses that sell cars and businesses that sell
24 appliances, right?

25 A. Yes, sir.

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1 Q. And after I questioned you a bit, you admitted that
2 you had no concrete evidence that wal-Mart was at all hurt by
3 these ordinances, right?

4 A. I had no evidence of finances of these
5 institutions.

6 Q. And you weren't able to identify any car
7 dealerships that had suffered any losses as a result of the
8 ordinances, were you?

9 A. No, because I don't know the finances of all the
10 businesses.

11 Q. And you also mentioned businesses that sell
12 appliances. You weren't able to identify any single business
13 which sold appliances that has suffered a loss because of
14 these ordinances, could you?

15 A. No, I don't sell appliances myself.

16 Q. These were simply suspicions on your part that
17 these kind of businesses were hurt by the ordinances, right?

18 A. Nope.

19 Q. They weren't suspicions on your part?

20 A. No, sir.

21 Q. At your deposition last Thursday, you took an oath
22 to tell the truth, did you not?

23 A. I did.

24 Q. You were attempting to tell the truth when I asked
25 questions of you, were you not?

1 A. Yes, sir.

2 MR. MAHONEY: Counsel, Page 137.

3 BY MR. MAHONEY:

4 Q. Do you recall these questions and answers that I
5 put to you and you gave me?

6 I want you to recall, Doctor, these questions and
7 answers which I put to you and you gave to me.

8 At this point in the deposition, Doctor, we were
9 talking about wal-Mart, and whether or not you had any
10 evidence to substantiate your testimony that wal-Mart had
11 been injured as a result of the passage of the ordinances.

12 The question that was put to you is as follows:

13 Question: "Have you talked to anybody in a
14 managerial capacity at wal-Mart to confirm your suspicion?"

15 Answer: "No."

16 Question: "It is just a suspicion you have?"

17 Answer: "Yes."

18 Question: "And you said that businesses that sell
19 cars are negatively affected by the decrease in Latino
20 population, right?"

21 Answer: "Yes."

22 Question: "Can you name any specific car
23 dealership or businesses that sell cars that you have spoken
24 with to confirm your suspicion?"

25 Answer: "No."

□

1 Question: "And you also said that there were
2 places that sell appliances that have been negatively

3 affected by the decrease of Latino population.

4 "Have you spoken to anybody in a managerial
5 capacity for any of those businesses to confirm your
6 suspicions?"

7 Answer: "No."

8 Question: "So these are just suspicions of yours?"

9 Answer: "Yes."

10 Do you recall giving that testimony?

11 A. Yes, sir.

12 Q. So these were suspicions of yours, which you can't
13 substantiate, can you?

14 THE COURT: Just a minute. The way we will do this
15 is because the next week or two weeks we will have a lot of
16 this give and take, anytime you are challenging someone, just
17 the way you did it.

18 You will read to them something which purports to
19 be different from what their testimony is, and that is all
20 that's to it. Then the witness who is on the stand, you put
21 the question to him, which you did. He can now offer an
22 explanation, and that is it. There is no back and forth.

23 BY MR. MAHONEY:

24 Q. Your explanation, Doctor.

25 A. My explanation is that a suspicion is one thing you

□

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1 have without having any idea of what is going on.

2 If you have seen with your own eyes. I go to
3 wal-Mart. I go to the car dealers. I go to the businesses
4 in Hazleton, and I can see by my own eyes the decrease in
5 customers in all of these businesses.

6 I'm not an accountant. I don't know anything about

7 the finances of these businesses, and they will not be
8 willing to share that with me. The only thing that I can do
9 is assume that this is the case.

10 THE COURT: Thank you. That's all.

11 BY MR. MAHONEY:

12 Q. Doctor, you indicated in your direct testimony that
13 some of your non-Hispanic neighbors are cold and somewhat
14 distant to you at the present time.

15 A. Yes, sir.

16 Q. You know that many people in Hazleton agree with
17 the efforts of the City to deal with the problem of illegal
18 immigration, correct?

19 A. Yes, they have been instructed.

20 Q. And these people who feel that illegal immigration
21 is a problem disagree with you, don't they?

22 A. They may, yes.

23 Q. But you wouldn't attribute this coldness, this
24 distance from your former neighbors or your neighbors to the
25 fact that you're in direct opposition to each other on this

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1 particular issue?

2 A. Sure. We are disagreeing on this issue.

3 Q. Your medical practice, you alluded to that earlier.
4 There were some Plaintiffs who said that your medical
5 practice went out of business --

6 MS. ALVAREZ: Objection, Your Honor. This is
7 hearsay. He's talking about what other Plaintiffs have
8 testified in their depositions.

9 THE COURT: Will you finish the question?

10 MR. MAHONEY: Some Plaintiffs have said in their
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11 depositions that your medical practice went out of business
12 because of these ordinances. That is it not true, is it?

13 THE WITNESS: It is not true.

14 THE COURT: Sustain the objection.

15 BY MR. MAHONEY:

16 Q. Doctor, your medical practice did not go out of
17 business because of these ordinances, right?

18 A. No, sir.

19 Q. No, it did not, or no, I'm not right?

20 A. No. My practice did not go out of business because
21 of the ordinance. Because it was before the ordinance that I
22 stopped working as a doctor.

23 Q. You retired in December of 2005, and you did so
24 because your practice was losing money because of
25 malpractice, that sort of thing, which affects a lot of

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1 doctors?

2 A. Sure.

3 Q. With regard to your church, you are a parishioner
4 at Saint Gabriel's in Hazleton?

5 A. Yes, I am.

6 Q. And am I correct, sir, that since the ordinances
7 have passed, there has not been a decrease in the number of
8 parishioners at the parish?

9 A. Not really.

10 Q. And, in fact, Saint Gabriel's prior to the
11 ordinances being enacted had masses said on Sunday in
12 Spanish?

13 A. Yes.

14 Q. And that practice has continued?

15 A. Yes, sir.

16 Q. And I understand from things that I hear in this
17 case that it is standing room only in some of those
18 Spanish-speaking masses, is that correct?

19 A. I didn't understand what you said.

20 Q. The church is full for the Spanish mass?

21 A. The church is full, yes, sir.

22 Q. Doctor, you believe that the enforcement of the
23 ordinances may expose illegal immigrants in Hazleton to a
24 greater risk of apprehension by Federal authorities, don't
25 you?

□

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1 A. Yes.

2 Q. And you also believe that enforcement of the
3 ordinances creates a greater risk that illegal aliens in the
4 City of Hazleton may be deported, don't you?

5 A. There is a greater risk shared with other Latinos
6 in the area.

7 Q. And you don't like the fact that these ordinances
8 could possibly expose illegal immigrants who happen to be
9 Latino to possible apprehension and deportation, do you?

10 A. Do I believe these ordinances would do that?

11 Q. You don't like the fact that these ordinances
12 expose illegal immigrants, some of whom are Latinos, to that
13 increased risk of apprehension and deportation?

14 A. Not necessarily.

15 Q. Well, you indicated in your earlier testimony that
16 Latinos are a family, and what hurts one Latino, hurts all
17 Latinos?

18 A. That's right.

19 Q. And you agree that even if a Latino is an illegal
20 immigrant, that if something happens which hurts that
21 particular person, it hurts you as well because you're
22 Latino?

23 A. Because it is a person and he is not illegal.

24 Q. I understand he's a person, sir, but if he's an
25 illegal immigrant, do you believe he should live in the City

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1 of Hazleton?

2 A. Can I explain a little bit? Do you permit me to
3 explain, please? I have to elaborate on the answer to that
4 question.

5 I believe that every nation has a right to protect
6 its borders, and I believe that this is something that
7 pertains to the Federal Government. I agree with the
8 deportation of undocumented immigrants who don't show a proof
9 of their citizenship, but I oppose that small cities will
10 have different laws to deal with this problem when this is an
11 international problem to be dealt with Congress. Thank you.

12 Q. Sir, back to the point I was trying to make. Do
13 you believe that an illegal immigrant, whether they are
14 Latino, Romanian, or other ethnic group, has the right to
15 work in the City of Hazleton, yes or no?

16 A. No.

17 MR. MAHONEY: That's all I have, Your Honor.

18 THE COURT: Any redirect?

19 MS. ALVAREZ: Yes.

20 REDIRECT EXAMINATION

21 BY MS. ALVAREZ:

22 Q. Dr. Lopez, earlier, before we took a break for
Page 99

23 lunch, you were discussing two organizations. You testified
24 about the Northeast Latino Coalition, and you testified about
25 the Hazleton Area Latino Task Force.

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1 Can you explain to us what the Northeast Latino
2 Coalition is?

3 A. The Northeast Latino Coalition was formed by a
4 group of people from different parts in Luzerne County.
5 There is representation from the Poconos, what is called the
6 Poconos, and representation from Hazleton, from Wilkes-Barre
7 and from Scranton, and we got together to see if we could
8 unite all the Latino organizations in the area.

9 Q. And explain to me the difference between that
10 organization and Hazleton Area Latino Task Force.

11 A. Hazleton Area Latino Task Force was organized under
12 the advice of the Pennsylvania Human Relations Commission.
13 This advice was given by a meeting that we had with the
14 Hazleton community and the Pennsylvania Human Relations
15 Commission and Luzerne County Community College in which
16 there were a series of recommendations done on how to unite
17 the Latinos in Hazleton, and one of the things that was
18 recommended to me by an Ann Vandyke, which is the one that
19 deals with public relations, was to make a Latino task force
20 that would be representative of all the areas that work in
21 Hazleton.

22 Q. You also testified about the rally that took place
23 in September of '06. You testified that out of about 300
24 people that went to that rally, about 50 percent were from
25 Hazleton?

1 A. Yes.

2 Q. Do you have any idea why only 50 percent were from
3 Hazleton?

4 A. Well, one thing is that many of the people were
5 afraid to go there. The other things is that the immigrants
6 that come here, they had to work, and some of them work
7 double shifts, and these double shifts include Saturday and
8 Sunday sometimes. I am in that situation right now.

9 Q. Okay. You also testified earlier on cross about
10 several businesses that have recently opened in Hazleton.

11 Can I ask you first, were you aware of any -- let
12 me backtrack. To the best of your knowledge, what is the
13 status, the legal status of the ordinances at issue right
14 now?

15 A. Well, the legal status of the ordinance right now,
16 they are stopped because of an injunction in court. So that
17 will make it easy for other people to entertain opening
18 businesses, hoping that this will not pass.

19 Q. Do you know if this injunction has any effect in
20 the community on the businesses?

21 A. Yes.

22 Q. What effect?

23 A. This injunction, if it keeps on going, if it
24 continues to go -- it is not in effect now, so it is not
25 affecting the businesses at this time, but it did affect

□

1 the -- it is starting to affect the businesses by getting the
2 people off the streets by the presence of authorities in the

3 area.

4 Q. And I wanted to ask you also, what do you know
5 about -- can you tell us the status of Elvis Soto's Variety
6 Store? Is that located in Hazleton?

7 A. Soto Variety Store?

8 Q. If you know.

9 A. I know that the owner got sick and died, but I
10 don't know what other things affected that property.

11 Q. Do you know anything about Lopez's, Kim Lopez and
12 Ruddy Lopez's store?

13 A. Yes. I understand they moved out of Wyoming
14 Street. I don't know what the reasons were.

15 MS. ALVAREZ: Nothing further.

16 MR. MAHONEY: Nothing further.

17 THE COURT: Thank you very much, Doctor.

18 MS. ALVAREZ: I would like to call Jose Luis
19 Lechuga to the stand, please.

20 (At this time, the Spanish interpreter was sworn in
21 to translate for the testimony of Jose Lechuga,
22 Rosa Lechuga and Pedro Lozano.)

23 JOSE LECHUGA, called as a witness, having been duly sworn or
24 affirmed according to law, testified as follows:

25 DIRECT EXAMINATION

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1 BY MS. ALVAREZ:

2 Q. Mr. Lechuga, would you please tell us your address?

3 A. 121 North Wyoming Street.

4 Q. Where is Wyoming Street located?

5 A. It is located between Tamarack and Holly Street.

6 Q. What city?

7 A. Hazleton, Pennsylvania.
8 Q. How long have you lived in Hazleton, Pennsylvania?
9 A. Sixteen years.
10 Q. Are you married, Mr. Lechuga?
11 A. Yes.
12 Q. What is your wife's name?
13 A. Rosa Lechuga.
14 Q. How long have you been married?
15 A. Twenty-five years.
16 Q. Do you have any children?
17 A. Yes.
18 Q. How many children?
19 A. Five.
20 Q. What country are you originally from, Mr. Lechuga?
21 A. Mexico.
22 Q. When did you come to the United States?
23 A. 1982.
24 Q. Why did you come to the United States?
25 A. I came here looking for a better life.

□

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1 Q. How did you get to the United States?
2 A. I traveled Mexico to California.
3 Q. Did you have documents permitting you to be here
4 when you first came from Mexico?
5 A. No. I arrived here as an undocumented alien.
6 Q. Do you have documents now?
7 A. Yes.
8 Q. What do you have?
9 A. Permanent residency.
10 Q. When did you obtain this residency?

11 A. August of '98.
12 Q. How did you obtain this residency?
13 A. In 1987, there was an amnesty offer for individuals
14 who worked in the countryside --
15 Q. Can you explain to me --
16 A. -- as a farmer.
17 Q. Can you explain to me what this amnesty is?
18 A. That was an opportunity that was presented to those
19 of us that were undocumented so that we could establish a
20 legal residency status within the United States.
21 Q. How did this process work?
22 A. Well, you have to qualify by being a farmer.
23 Q. How long did it take?
24 A. If I'm not mistaken, we completed our applications
25 in June of 1988, and we had to attend an appointment in

□

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1 August.
2 Q. What about your wife, Rosa, what was her
3 immigration status when she got here?
4 A. We both arrived under the same conditions. We were
5 both undocumented.
6 Q. Did you both get amnesty at the same time?
7 A. Correct.
8 Q. What about your children?
9 A. I have one child who was born in Mexico City, and
10 the rest of my children are American citizens.
11 Q. Mr. Lechuga, are you employed at the present time?
12 A. No.
13 Q. Why aren't you employed at the present time?
14 A. Because I lost my businesses.

15 Q. Are you a member of any associations?
16 A. Yes. I'm a member of the PCCL.
17 Q. Do you mean the Pennsylvania Statewide Latino
18 Coalition?
19 A. Correct.
20 Q. When did you join PSLC?
21 A. In the month of August of 2006.
22 MS. ALVAREZ: Your Honor, we have Plaintiffs'
23 Exhibit 141 for identification.
24 THE COURT: What number is that?
25 MS. ALVAREZ: 141. May I approach the witness,

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1 Your Honor?
2 THE COURT: You may.
3 BY MS. ALVAREZ:
4 Q. Mr. Lechuga, would you please take a look at what
5 has been marked as Plaintiffs' Exhibit 141 for
6 identification?
7 A. Yes.
8 Q. Do you recognize it?
9 A. Of course I do.
10 Q. What is it?
11 A. This is a contract that I signed because I'm a
12 member.
13 Q. How did you know this is the contract that you
14 signed to make you a member?
15 A. Because I see my signature here and my handwriting.
16 Q. Does Plaintiffs' Exhibit No. 141 for identification
17 correctly and fairly and accurately depict the form that you
18 filled out?

19 A. Yes.

20 MS. ALVAREZ: Your Honor, at this time, I would
21 like to offer Plaintiffs' 141 into evidence.

22 THE COURT: Any objection?

23 MR. MAHONEY: No objection, Your Honor.

24 THE COURT: If we could, why don't we leave all of
25 these exhibits that we're talking about, rather than going

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1 through that process, until the end of the case, unless there
2 is a special problem, but otherwise bring it up, but
3 otherwise leave it go.

4 MS. ALVAREZ: Okay. Thank you.

5 THE COURT: But this one is admitted.

6 (At this time, Plaintiffs' Exhibit No. 141 was
7 received into evidence.)

8 BY MS. ALVAREZ:

9 Q. Mr. Lechuga, when did you first come to Hazleton?

10 A. 1991.

11 Q. Is that the same year that you decided -- that you
12 moved to Hazleton?

13 A. Not exactly. But I did come to the State of
14 Pennsylvania.

15 Q. Where did you come? Where in Pennsylvania did you
16 go?

17 A. Shepton.

18 Q. How long did you live in Shepton?

19 A. I believe a few months.

20 Q. Is that the time when you came to Hazleton?

21 A. Yes.

22 Q. Why did you come to Hazleton?

23 A. I came to Hazleton, because when I arrived with the
24 immigrants that worked on farms, I met two gentlemen that
25 worked at a company called Penntext, and they invited me to

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1 work with them. I was told that there were good
2 opportunities, and that is how I became established here in
3 Hazleton.

4 Q. What was it like living in Hazleton when you first
5 arrived?

6 A. It was a very solid town. There were no
7 Hispanics. People looked at us like strange people.

8 Q. Did that eventually change?

9 A. Since I was working with different companies -- for
10 example, like I mentioned, I worked with Penntext, Perkins,
11 Full Pack, a cleaning company, and so I became familiar with
12 different people of different nationalities, especially --

13 THE COURT: Did you work at these companies you
14 just mentioned?

15 THE WITNESS: Yes.

16 THE COURT: Was the first company Gentex?

17 THE WITNESS: Penntext. That company came from New
18 York.

19 BY MS. ALVAREZ:

20 Q. When you lived in Hazleton at that time, how did
21 you feel about the City?

22 A. Even back then I did feel like a part of the
23 community. People no longer looked at me like a stranger,
24 because they knew that my wife and I were working people, and
25 so I was accepted in the community. They no longer looked at

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1 me with, I would say, like racism.

2 Q. What is it like living in Hazleton today?

3 A. It seems that presently everything is totally
4 changed, because after Mr. Louis Barletta's ordinances,
5 apparently the racial hatred and the racism has awoken. We
6 notice and see that people no longer look at us -- they look
7 at us like their enemies now, not our friends.

8 Q. Do you feel that people look at you that way?

9 A. Excuse me?

10 Q. Do you feel people look at you that way?

11 A. Yes. I actually have a neighbor that when I moved
12 to our present residence in Wyoming, she was a lady that when
13 we first arrived, she seemed to trust us, and as time went
14 by, she noticed that we were kind people.

15 whenever it snowed, I would clear her car, or I
16 would tell my sons to go clean her sidewalks for her, and so
17 she became more familiar with us that way.

18 Then when this situation developed with
19 Mr. Barletta's ordinances, one day I spoke to her and I asked
20 her, what do you think about Mr. Barletta's ordinances? She
21 said that the language was very necessary. What she tried to
22 have me understand was that if you spoke English, you were
23 not a criminal.

24 I asked her how long have you known me for now?

25 She said for a long time. I said, what did you think of me?

□

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1 She said, you're a very good person. So I responded -- I
2 said, what would be the difference if I didn't speak English
3 and I only spoke Spanish? She said it is that when we walk

4 through the streets, we don't know what they are saying about
5 us.

6 Q. Mr. Lechuga, when did you first hear or become
7 aware about these ordinances?

8 A. I found out because of reporters. One day in the
9 morning they came to my store, and I just opened the door to
10 my business, and there was a crowd of reporters present.
11 They were taking pictures. So I went back into my store
12 again, and they followed me into the store, and they began to
13 ask me many questions.

14 I was asked, what do you think about Mr. Barletta's
15 ordinances? What do you think about what is being reported
16 in the newspaper of the Standard Speaker? I said, I don't
17 know. I'm just opening up. I don't know.

18 They said, it is 10 in the morning. I said, I open
19 my business at 10:30. They said, so you haven't seen it in
20 the newspaper? I said, no. So they began to say, but they
21 were all talking at the same time, and they said, look, you
22 have those signs in Spanish. You will have to change them to
23 English. You have to change everything, because you have to
24 speak only English here.

25 So I really started laughing. I was confused. I

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1 immediately thought, why do we have to change our signs? We
2 live in an immigrant community, Europeans, just as Latin
3 America, and I asked one of the reporters, the gentlemen that
4 come here from Italy, do they have to change their menus from
5 Italian to English, or what about the Chinese?

6 Q. What is your understanding about what these
7 ordinances do?

8 A. Well, to start, I was a little confused with
9 respect to the ordinances, because they have changed.
10 However, in reality, this has affected us, especially it
11 affects us because we come from a community, we say it is a
12 Latin community, but it is very different when you speak of
13 Mexico or Guatemala, El Salvador or Honduras, where a group
14 is accustomed to eating almost the same foods. So the
15 Caribbean community has different types of foods that they
16 eat, and so that is why this ordinance affected me more.

17 Q. Why would different types of food, eating different
18 types of food affect you more?

19 A. Well, first off, I want to clear up that when
20 everyone speaks about a Mexican, they see a painted chile and
21 tequila. That is what they think of when they refer to
22 Mexicans.

23 Now I want to mention why different people from
24 different countries eat different foods. For example, people
25 from the Caribbean are not used to eating very mildly spicy

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1 foods. They have different types of seasonings for their
2 foods. In reality, there is a great difference between us.

3 Q. How did this affect your business?

4 A. The ordinance became very popular. I say popular
5 because it was reported widely through all forms of the
6 media: The television, the newspapers. I had many clients
7 that would come from Scranton, from Wilkes-Barre, Allentown,
8 Reading, and from some other locations.

9 when they began to see this barrier that was being
10 imposed on us, people would tell me, I don't want to go to
11 Hazleton anymore, because they heard that the police were

12 stopping people for not having a license. They would arrest
13 you, and just because of that, they wanted to be away from
14 these problems.

15 Q. Mr. Lechuga, when you're referring to your
16 business, what business are you referring to?

17 A. Both businesses: My store and my restaurant.

18 Q. Let's talk about the store first. What was the
19 name of your store?

20 A. Lechuga's Mexican Products.

21 Q. And where was Lechuga's Mexican Products located?

22 A. 121 North Wyoming Street.

23 Q. Is this in Hazleton?

24 A. Yes.

25 Q. When did you open the store?

□

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1 A. I believe it was in 2000.

2 Q. Why did you open the store?

3 A. Well, back then -- let me go back for a moment.

4 When I arrived in the City of Hazleton, when we were at mass,
5 you could stand there and count that there were 17 people in
6 the church. That was in 1992 or 1993.

7 Afterwards, a few more people began to arrive,
8 people that arrived who worked on the farms and they
9 remained. Since I had already been in the City of Hazleton
10 for some time and I had developed relationships with
11 different people, they would ask me if there was work or
12 opportunity available here, and I would tell them, yes.

13 So a lot of the people -- well, not a lot. People
14 began to arrive year after year after year, until I saw the
15 need to open a Mexican store.

16 THE COURT: Were all these Mexican people?

17 THE WITNESS: That is the reason why I opened the
18 store.

19 THE COURT: Were these all Mexican people?

20 THE WITNESS: Yes.

21 BY MS. ALVAREZ:

22 Q. What did you sell at this store?

23 A. I sold basic things: Tortillas, cheese, chorizo,
24 canned chiles, different canned products, also sodas from
25 Mexico.

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1 THE COURT: Principally food, Mexican food?

2 THE WITNESS: Yes. Correct.

3 THE COURT: How old are you?

4 THE WITNESS: Forty-four.

5 BY MS. ALVAREZ:

6 Q. Who worked in the grocery store?

7 A. My family worked with me; my wife, my children and
8 myself.

9 Q. What was your role in the grocery store?

10 A. In the morning, I would look around and make sure
11 everything was fine, try to put everything in order so that
12 my store looked good and begin to prepare to make my orders.

13 Q. What was your wife's role in the store?

14 A. Whenever I had to go out, if I ever had to go out
15 and make deliveries, she would remain.

16 Q. How was business going with the store when you
17 first opened?

18 A. When we first opened the store, the population was
19 not too big, but we had sales, and it was necessary to

20 increase the merchandise or the products within my store.

21 For example, I added telephone cards, calling
22 cards, milk. Sometimes people would ask if I could get cards
23 like for first communions, for baptisms, for a 15th birthday,
24 and that is how we began to broaden. My business was
25 flourishing, blossoming.

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1 Q. How was the business throughout the years, from
2 when you opened until about 2005?

3 A. Like, up until 2005, my business had ups and downs.
4 For example, if I'm not mistaken, in 2004, we opened a branch
5 in Tamaqua. That store was opened for a year. Afterwards,
6 we had to close down.

7 Q. How was business at the store in 2005, the store in
8 Hazleton?

9 A. I think that in 2005 I didn't have much of a
10 profit, but I was still in business.

11 THE COURT: Is that the Hazleton store?

12 THE WITNESS: Correct.

13 THE COURT: That's in 2005?

14 THE WITNESS: Yes.

15 BY MS. ALVAREZ:

16 Q. What did you expect -- how did you expect business
17 to be in 2006?

18 A. I expected that my business would have more of an
19 impact or do better in 2006, because there were many people
20 that were arriving working for Christmas trees. These people
21 arrive and they are contracted from the City of Mexico and
22 from Monterey.

23 There were a lot of people who were arriving, and I
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24 can say this because beforehand I had clients that would come
25 to me from the same company, and they told me themselves that

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1 more people were needed and that more people were actually
2 arriving, and that is why I expected business to be better.

3 Q. And how was business in the early part of 2006
4 before the ordinances -- before the ordinances came to be
5 publicized?

6 A. It was good.

7 Q. How was business in 2006 after you learned about
8 the ordinances?

9 A. I began to see a decrease. Like I said before,
10 many people commented and told me they did not want to come
11 into Hazleton because they didn't feel safe, and they didn't
12 want to have any problems. They didn't like to be
13 questioned. They were people who were not problematic.

14 Q. How was business in the early part of 2007?

15 A. Terrible, terrible.

16 Q. Is the store still open?

17 A. No.

18 Q. When did you close the store?

19 A. February.

20 Q. What do you think caused these losses in your
21 store?

22 A. I attribute it to the ordinances.

23 Q. Why?

24 A. Like I mentioned before, it said that there are
25 many Latinos in the community of Hazleton, but, like I said,

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1 we all eat different things, and the people that are here now
2 are not clients. There are not enough clients to keep my
3 business open.

4 Q. Now I will discuss with you the restaurant that you
5 mentioned earlier. What was the name of that restaurant?

6 A. Langria Lechuga. It was on the same street,
7 Wyoming Street in Hazleton.

8 Q. When did you open the restaurant?

9 A. In February of 2007 -- 2006.

10 Q. Who worked in the restaurant?

11 A. My wife. Sometimes I had to go when my children
12 were home from school and stay there. They would stay in the
13 store or go to the restaurant and they would help my wife.
14 So we divided the work among ourselves.

15 Q. What did your wife do at the restaurant?

16 A. My wife was in charge of cooking.

17 Q. What did you do at the restaurant?

18 A. Whenever I was there, I would help to serve, to
19 take orders, serve people, wash dishes and clean.

20 Q. How did you fund the opening of the restaurant?

21 A. Well, we were backed up on our mortgage payments
22 and the company did not want to accept half of the debt, so
23 my wife and I thought that if we would invest in another
24 business to be able to solve this problem, and we also talked
25 to my son, and I indicated that I would not be able to --

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1 able to pay for his school, his college, university. So we
2 decided to take that money and use it to begin a new
3 business, but, unfortunately, we lost.

4 Q. why do you think you lost the business?

5 THE COURT: what was that?

6 MS. ALVAREZ: I'm asking him what did he think the
7 reason for the loss was.

8 THE COURT: Thank you.

9 THE WITNESS: Like I mentioned before, Mexican
10 people or the Mexican people no longer came to the
11 restaurant, nor did they come to the store, because on the
12 one side of the restaurant, there was normally a patrol car
13 parked there for a long time. If it was not there, it was in
14 front of the laundromat.

15 One time, a police officer entered the restaurant,
16 and after that, people began to comment that the police were
17 there to take the clients away when they came to eat. So
18 people felt very intimidated, and that is the reason why we
19 lost our business.

20 BY MS. ALVAREZ:

21 Q. Do you know of any other people who lost their
22 businesses in Hazleton?

23 A. Yes.

24 Q. Can you give us some examples?

25 A. For example, there was another Mexican store on

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1 Diamond Avenue. I think it was called Lopez Grocery, and
2 afterwards, the gentleman who had a business in front of
3 ours, had a meat market, next door to him, there was the
4 Royal Prestige Store. Additionally, I heard other businesses
5 that had lost business.

6 Q. Do you know when more or less these businesses lost
7 business?

8 A. Based on the comments, I think it was around July,
9 July of 2006.

10 Q. You described the impact of the ordinances on these
11 businesses, as well as your own.

12 what impact do you think the ordinance has had on
13 the Latino community in Hazleton?

14 A. well, like I said before, it has had a great
15 impact, because hard-working people are the people that have
16 been affected.

17 Q. what impact has it had on your family?

18 A. This has been terrible. we had a separation in the
19 family. For example, my daughters. The one that hurts me
20 the most is the one that was about to graduate here from high
21 school in Hazleton, and she had to migrate to another state.

22 My daughters were harassed in school through some
23 of their peers or fellow students. They would harass them
24 and say to them, why don't you Mexicans turn to roaches so
25 that we can kill you with any insecticide? So I wanted my

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1 daughters to be far from that, from those problems, because
2 we're not problematic people. we are hard-working people.
3 we will always learn to be honest. That is how we were
4 greatly affected.

5 Additionally, my six-year-old son who was attending
6 the school at High Terrace, I have not been able to register
7 him in school, because we have been continuously traveling.

8 Another way this has affected us, like I said, the
9 separation in the family. When my daughters were here with
10 me, they had their beds that they could sleep in. They had a
11 good life. However, now it is a little difficult. They have

12 to sleep on the floor. They are staying with an aunt.
13 Sometimes I don't know if they have eaten, if they have
14 eaten. What has allowed me to remain proud is that my
15 daughters work even where they are to sustain themselves.

16 Q. Can you just clarify for us, where is every member
17 of your family now?

18 A. My daughters are in Arkansas.

19 Q. What about your other family?

20 A. My oldest son is also in Arkansas. My other son is
21 here with me and my wife.

22 MS. ALVAREZ: I have no further questions. Thank
23 you.

24 CROSS EXAMINATION

25 BY MR. MAHONEY:

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1 Q. Mr. Lechuga, you stated in the beginning of your
2 examination that you live on North Wyoming Street, is that
3 correct?

4 A. Correct.

5 Q. Do you still live there?

6 A. You could say so.

7 Q. Well, I want to know if you're living there on a
8 day-to-day basis?

9 A. Not from day-to-day, because, as I mentioned, we're
10 in the process of moving.

11 Q. You had been planning to move out of the state as
12 early as last fall, correct?

13 A. Yes.

14 Q. In fact, you went to North Carolina last fall to
15 look for other job opportunities?

16 A. Correct.
17 Q. Are you looking for job opportunities in the State
18 of Arkansas where your children are located?
19 A. Clearly.
20 Q. Did you come back here specifically for the trial?
21 A. Besides the trial, for other reasons.
22 Q. What other reasons?
23 A. To continue to empty out my house.
24 Q. Was your house up for sheriff's sale, sir?
25 A. Correct.

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1 Q. And was the house up for sheriff's sale because
2 your mortgage company foreclosed on your mortgage?
3 A. Yes.
4 Q. You stopped paying your mortgage in the year 2005,
5 did you not?
6 A. Correct.
7 Q. So from approximately February or March of 2005,
8 until the house was listed for sheriff's sale, you hadn't pay
9 any mortgage payments, did you?
10 A. I didn't understand your question.
11 Q. From February 2005 until your house was listed for
12 a sheriff's sale in the year 2006, you didn't make any
13 mortgage payments, did you?
14 A. I tried to make payments, but the company would not
15 accept them.
16 Q. Sir, you indicated that your businesses suffered
17 losses because your Mexican customers would no longer come to
18 your businesses, is that correct?
19 A. Yes.

20 Q. Was it your understanding that most of your
21 customers were undocumented aliens?

22 A. I don't know about that.

23 Q. You don't know one way or the other?

24 A. Excuse me?

25 Q. You don't know one way or the other whether they

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1 were --

2 MS. ALVAREZ: Objection.

3 THE COURT: He was rephrasing the question.

4 Overruled.

5 BY MR. MAHONEY:

6 Q. Do you know, sir, whether or not the people were
7 documented or undocumented?

8 A. I don't think that is my job to ask them whether
9 they are documented or not.

10 Q. It may not be your job, sir, but we're here to try
11 to figure out why you lost business, are we not?

12 A. Could you repeat the question?

13 Q. We're here to determine why you lost business, are
14 we not?

15 A. Correct.

16 Q. And you attribute it to the ordinances?

17 A. Correct.

18 Q. Which caused the Mexican customers to stay away
19 from your businesses?

20 A. Correct.

21 Q. Now, if these individuals were legally in this
22 country, they would have nothing to fear about coming to your
23 store, would they?

24 MS. ALVAREZ: ^{lozanod1.txt} Objection, speculation.
25 THE COURT: I will sustain the objection.

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1 Rephrase the question.

2 BY MR. MAHONEY:

3 Q. Sir, do you know whether or not individuals who
4 came to your store before the ordinances no longer came
5 because they feared they would be at risk for apprehension
6 because they were illegal immigrants?

7 MS. ALVAREZ: Objection, Your Honor. He already
8 testified that he didn't know their immigration status.

9 THE COURT: He can answer the question.

10 THE WITNESS: Of course, yes. Like I mentioned
11 before, my clients that came to work on the farms were
12 contracted from Mexico.

13 A person cannot be contracted from Mexico if they
14 don't have documents, and that is why I suppose that these
15 people were here legally, and year after year, they come.

16 BY MR. MAHONEY:

17 Q. So you believe they were here illegally?

18 MS. ALVAREZ: Objection. He mischaracterized his
19 testimony.

20 THE COURT: He didn't understand what he said.

21 MR. MAHONEY: I simply asked him if he understood
22 they were here illegally.

23 MS. ALVAREZ: Your Honor, he clearly testified that
24 he believed they were here legally.

25 THE COURT: I understand that. He didn't

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1 understand the answer, so he put another question to the
2 witness.

3 THE WITNESS: My clients were here legally.

4 BY MR. MAHONEY:

5 Q. You will have to clarify your answer.

6 A. Were here legally.

7 Q. Sir, your business was located -- your restaurant
8 was located at 58 North Wyoming Street, correct?

9 A. Yes.

10 Q. And you're aware in September of 2006, after your
11 restaurant closed, that another restaurant was opened at the
12 location?

13 A. Yes.

14 Q. And the owner of that new restaurant at the same
15 location was a Latino?

16 A. Yes, a Dominican gentleman.

17 Q. And do you know that the business was called Entre
18 Nostros?

19 A. I don't know the exact name of it, but yes.

20 Q. 58 North Wyoming is one block from your grocery
21 store, correct?

22 A. Four blocks.

23 Q. For blocks, I apologize.

24 And you are aware having come back to Hazleton from
25 your travels that that restaurant Entre Nostros is still

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1 operating?

2 A. Yes.

3 Q. And as far as you know, that business is
4 flourishing, is it not?

5 A. I don't know. It is not my business, sir.

6 Q. Sir, if you would please go to the exhibit binder

7 No. 5. If you would, please, turn to Exhibit Tab D-199.

8 Am I correct, Mr. Lechuga, that this is your 2003

9 U.S. individual income tax return?

10 A. Yes.

11 Q. It was filed on behalf of both you and your wife,

12 Rosa?

13 A. Correct.

14 Q. If you take a look at the first page of the return,

15 Line 22 indicates your total income, is that correct?

16 A. Yes.

17 Q. And it's \$24,300?

18 A. Correct.

19 Q. And if you go up to Line 12, there is an entry for

20 business income or loss, and it says attached Schedule C or

21 CEZ, do you see that, sir?

22 A. Yes.

23 Q. And your business income for the year 2003,

24 according to Line 12, was \$23,675, correct?

25 A. Correct.

□

1 Q. If you go to the fifth page of this document, is
2 that a Profit or Loss Schedule Statement C, sir?

3 A. Yes.

4 Q. Is the name of that business Jose Lechuga New World
5 of Cleaning?

6 A. Yes.

7 Q. If you go down to Line 31 which gives you the net
8 profit or loss of your cleaning business, the figure is

- 9 \$32,468?
- 10 A. Correct.
- 11 Q. Also included in this income tax return is a
- 12 schedule C for a business called Lechuga's Mexican Products,
- 13 and if you flip up a couple pages, you will see the schedule
- 14 C for that business.
- 15 Sir, is that schedule C for Lechuga's Mexican
- 16 Products?
- 17 A. Okay.
- 18 Q. Sir, in Line 31, net profit or loss, is the figure
- 19 minus \$8,793?
- 20 A. Correct.
- 21 Q. So in the year 2003, your grocery store business,
- 22 which was located solely in Hazleton, lost nearly \$9,000,
- 23 correct?
- 24 A. Correct.
- 25 Q. This is one of the down periods you talked about in

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- 1 your earlier testimony, right?
- 2 A. Correct.
- 3 Q. At the end of 2003, you shut down your profitable
- 4 business, the cleaning business, did you not?
- 5 A. Yes.
- 6 Q. And you went strictly with the Mexican products
- 7 business, the grocery store?
- 8 A. Correct.
- 9 Q. And in the year 2004, you opened up the Tamaqua
- 10 store?
- 11 A. Correct.
- 12 Q. Would you turn now to Exhibits 201 and 200?

13 Sir, is that your income tax return for the year
14 2004?

15 A. Yes.

16 Q. And included in this particular tax return is your
17 schedule C for Lechuga's Mexican Products, correct?

18 A. Correct.

19 Q. And if you would go to, again, Line 31 on your
20 schedule C, there is reflected there a profit of \$25,523, am
21 I correct?

22 A. Correct.

23 Q. So even though the business lost money in 2003, you
24 had a nice profit in 2004?

25 A. Yes.

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1 Q. Now, let's go to 2005. That's Exhibit D-201.

2 Now, in year 2005, according to your income tax
3 return, which is listed as D-201, would you agree that you
4 had a gain that year, that is a profit of \$13,872?

5 A. Correct.

6 Q. You would agree, would you not, sir, that in the
7 year 2005 you began experiencing losses in your Tamaqua store
8 which precipitated its closing at the end of the year?

9 A. Yes.

10 Q. Mr. Lechuga, did you lose business in the Tamaqua
11 store because your customer base, a significant portion of
12 your customer base was deported by the Federal immigration
13 authorities?

14 A. Yes.

15 Q. Tell us the circumstances of that, sir.

16 A. What do you mean the circumstances?

17 Q. What do you know about what particular business it
18 was that was raided by the Federal immigration authorities
19 which resulted in the deportation of Mexican aliens?

20 A. It was the Wal-Mart Company.

21 Q. There was a Wal-Mart there?

22 A. It was on the construction.

23 Q. And were the construction crews made up of illegal
24 aliens from Mexico, to your knowledge?

25 A. I know a lot of workers that were from different

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1 nationalities, and I don't know.

2 Q. You don't know?

3 A. I don't know what the situation was.

4 Q. But you know that your client base went down
5 considerably when that raid occurred and those people were
6 deported?

7 A. Correct.

8 Q. And that also affected client base in Hazleton?

9 A. Yes.

10 Q. So in the beginning of 2006, when you were looking
11 forward to a good year, you had lost a substantial portion of
12 your client base, had you not?

13 A. Yes.

14 Q. To deportation, right?

15 A. Well, they were not all because of deportations.

16 Q. Were there other reasons why you lost your customer
17 base in the early part of 2006?

18 A. After July, people began to leave Hazleton.

19 Q. But before July of 2006, in the earlier part of the
20 year when the ordinances weren't being discussed, were there

21 other reasons for your loss of your client base, other than
22 the Federal raid on the wal-Mart which caused workers to be
23 deported?

24 A. No.

25 Q. So that was the only reason you lost your client

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1 base was deportation of the workers from the wal-Mart?

2 MS. ALVAREZ: Objection, Your Honor. Asked and
3 answered.

4 MR. MAHONEY: I will go on. I think the point has
5 been made.

6 BY MR. MAHONEY:

7 Q. Again, Mr. Lechuga, at the time you decided to open
8 up your restaurant at 58 North Wyoming, you had already
9 experienced a loss in your Tamaqua store, correct?

10 A. Yes.

11 Q. You had lost a substantial portion of your client
12 base in both your Tamaqua store and Hazleton store, correct?

13 A. Yes.

14 Q. And you also were in arrears in your mortgage in
15 excess of \$10,000, weren't you?

16 A. Yes.

17 Q. And you hadn't made a mortgage payment for
18 12 months, right?

19 A. Correct.

20 Q. And against that particular background, you decided
21 that it would be a good idea to open up another business,
22 right?

23 A. Yes.

24 Q. And as part of that new business, the restaurant at
Page 127

25 58 North Wyoming, you put down \$1,000 to purchase plates,

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1 pans, pots and other things for the restaurant, right?

2 A. It wasn't just \$1,000. It was more money.

3 Q. It was probably more?

4 A. Yes, more.

5 Q. And you got that money from the grocery business
6 four blocks up the street?

7 A. Correct.

8 Q. In addition to putting up in excess of \$1,000 for
9 supplies of pots and pans, you also put down a \$1,000 deposit
10 on the lease, correct?

11 A. Yes.

12 Q. You also had to pay \$1,000 a month on a five-year
13 lease?

14 A. Correct.

15 Q. When did you first receive notice from the mortgage
16 company that they were going to foreclose on your mortgage?

17 A. In December of 2006, yes -- November, November.

18 Q. Sir, your business at the grocery store in
19 Hazleton, that had lost money before the ordinances were
20 passed, correct?

21 A. Excuse me?

22 Q. Your store was losing money before the ordinances
23 were enacted, correct?

24 MS. ALVAREZ: Objection, Your Honor. He's answered
25 this question in many different forms several times already.

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1 MR. MAHONEY: I guess the answer is yes, Your
2 Honor.

3 THE COURT: I think you have covered that subject.

4 BY MR. MAHONEY:

5 Q. Sir, if you would turn to D-196, please. Am I
6 correct that the document before you is a two-page document
7 entitled Profit and Loss from Lechuga's Mexican Products for
8 the time period of April through June 2006?

9 A. Yes.

10 Q. And this document was prepared by your accountant,
11 David Purcell?

12 A. Yes.

13 Q. And if I'm reading it correctly -- I withdraw that
14 question.

15 This particular document includes a profit and loss
16 for the second quarter of 2006 for Lechuga's Mexican
17 Products, right?

18 A. Yes.

19 Q. And it also compares it to the profit and loss for
20 the same business for the second quarter of 2005, am I
21 correct?

22 A. Yes.

23 Q. If you take a look at the cost of goods sold -- I'm
24 sorry -- the income for the Hazleton store only in 2006, the
25 figure is \$16,071.57, correct?

□

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1 A. Yes.

2 Q. And the cost of the goods sold to the Hazleton
3 store during that same period was \$21,748.27, right?

4 A. Yes.

5 Q. So for that second quarter in 2006, that business
6 lost \$5,676.70, correct?

7 A. Yes.

8 Q. Now, let's compare that figure, sir, to the profit
9 and loss figure in the second quarter of 2005. At that
10 particular time, the Tamaqua store was opened, was it not?

11 A. Yes.

12 Q. If you compare the sales of just the Hazleton store
13 to the cost of goods sold at the Hazleton store, the
14 difference in the number, sir, assuming that math is correct,
15 is \$6,599.36, which was a loss to the Hazleton store in the
16 second quarter of 2005?

17 A. Yes.

18 Q. So at various times during the year, sir, whether
19 your business was profitable or not, you would lose money in
20 those three quarters, would you not?

21 A. Yes.

22 Q. Sir, you had mentioned in your direct testimony
23 that you saw certain stares that people had directed toward
24 you which you hadn't seen before enactment of the ordinances.
25 Do you recall that testimony?

□

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1 A. Yes.

2 Q. And in none of those instances, sir, did anybody
3 ever tell you the reason why they were staring at you in such
4 a way, did they?

5 A. No.

6 Q. So you don't know whether or not the people that
7 were staring at you in this hostile manner knew anything
8 about the ordinances, do you?

9 A. I don't know.
10 Q. You just assumed that is the case because the
11 ordinances were passed before you saw these stares?
12 A. Correct.
13 Q. Sir, before you left on your travels down to North
14 Carolina and Arkansas, you saw an increase in the crime in
15 your neighborhood, didn't you?
16 A. Yes.
17 Q. You also knew that in the years 2005 and 2006 that
18 street gangs began operating in your neighborhood?
19 A. That's what I heard.
20 Q. And you attributed the increase in crime partially
21 to the appearance of these gangs on the streets of Hazleton,
22 isn't that correct?
23 A. Yes.
24 Q. Sir, you never had any employees at your grocery
25 store, did you?

□

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1 A. No.
2 Q. You never planned to employ anybody at your grocery
3 store, did you?
4 A. No.
5 Q. You never had any employees at your restaurant?
6 A. No.
7 Q. And you never planned to have any employees at your
8 restaurant, is that correct?
9 A. Correct.
10 MR. MAHONEY: That's all the questions I have, Your
11 Honor.
12 MS. ALVAREZ: Can I have a moment, Your Honor?

13 THE COURT: We will take a 15-minute recess.
14 (At this time, a 15-minute recess was taken.)

15 REDIRECT EXAMINATION

16 BY MS. ALVAREZ:

17 Q. Mr. Lechuga, you testified about the Tamaqua store.
18 Where is Tamaqua compared to Hazleton?

19 A. It is approximately 25 miles south on Route 309.

20 Q. You also testified about a wal-Mart that was being
21 constructed?

22 A. Correct.

23 Q. Where was that wal-Mart located?

24 A. In Frackville. It is situated approximately
25 37 miles from Hazleton.

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1 Q. You also testified about certain stares that you
2 received after the passage of the ordinances?

3 A. Yes.

4 Q. How frequently did you receive those stares before
5 the passage of the ordinances?

6 A. It was not as often as compared to afterwards,
7 after the ordinances.

8 Q. You also testified that by early 2006 you had lost
9 some of your customer base?

10 A. Yes.

11 Q. Do you know when the ordinance was passed?

12 A. I believe it was in June.

13 Q. Of what year?

14 A. 2006.

15 Q. How did your business do after June of 2006?

16 A. It began to decline.

17 Q. Even more than earlier in the year?

18 A. Correct.

19 MS. ALVAREZ: No further questions.

20 MR. MAHONEY: No recross.

21 THE COURT: The witness is excused.

22 MS. ALVAREZ: Rosa Lechuga.

23 ROSA LECHUGA, called as a witness, having been duly sworn or
24 affirmed according to law, testified as follows:

25 DIRECT EXAMINATION

□

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1 BY MS. ALVAREZ:

2 Q. Mrs. Lechuga, are you married?

3 A. Yes.

4 Q. Who is your husband?

5 A. Jose Luis Lechuga.

6 Q. So you lived with Jose Luis Lechuga in Hazleton?

7 A. Yes.

8 Q. You moved to Hazleton around the same time
9 together?

10 A. Yes.

11 Q. How was Hazleton when you first moved there?

12 A. It was very quiet. It was good.

13 Q. How did the community of Hazleton treat you?

14 A. Well, good and bad, because there was not a lot of
15 Hispanic people, and so they would give us bad looks
16 sometimes because there was not a lot of Hispanic people
17 around.

18 Q. Did that change?

19 A. Yes. It changed a lot.

20 Q. Can you explain?

21 A. well, I think people began to see that we were
22 people that weren't looking for problems, that we were
23 hard-working, that we tried to get along with everyone, and
24 that we were trying to speak English.

25 I worked in many factories, and my coworkers were

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1 all American, and they always told me to speak English, and,
2 of course, I tried to speak English with them. I tried to
3 get along as best I could.

4 Q. Did you feel okay in Hazleton?

5 A. Yes, I did feel good.

6 Q. When did you hear about the ordinances?

7 A. Like in June.

8 Q. Of last year?

9 A. Yes.

10 Q. How did you feel when you heard about them?

11 A. well, I felt bad, because I thought this would
12 create problems, especially for my business.

13 Q. Did it create problems for your business?

14 A. Yes, many.

15 Q. And we just heard your husband discuss the store
16 business that you had, and he also discussed the restaurant.

17 Do you believe these businesses were affected by
18 the ordinances?

19 A. Yes.

20 Q. With respect to the restaurant, can you explain to
21 us why you think it was affected by the ordinances?

22 A. well, we opened up in February, and things were
23 going very well. I think when you begin to see a profit in
24 the business, it is usually after four or five months.

25 However, I began to see a profit the first week. Things were

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1 going very well, and then when the ordinances were enacted,
2 my business began to suffer.

3 Q. And why do you think that it was the ordinances
4 that affected businesses?

5 A. Well, it was sometime after the ordinances were
6 enacted that the police were always outside. Additionally, a
7 police officer entered the restaurant one day, and the people
8 that were there eating felt intimidated.

9 Afterwards, the people that were there, I found out
10 that they went out and told others, don't go there, the
11 police were always there and they question you, and so people
12 stopped coming because they heard what the others were
13 saying.

14 Q. When did you open the restaurant?

15 A. I rented the location in February, but I opened it
16 in March.

17 Q. And you testified that at first business was going
18 well?

19 A. Yes.

20 Q. When did you see a real change in the business?

21 A. Like at the end of July.

22 Q. Is the restaurant still open?

23 A. No. I was unable to continue to run the business,
24 because sales were down, they were too low, and I was unable
25 to pay the rent.

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1 Q. The last few days when you were opened at your

2 restaurant, can you describe for me the business?

3 A. Yes. It was completely empty. No one was coming
4 in.

5 Q. Your husband testified that you have four children?

6 A. Yes.

7 Q. Can you just tell us their ages, their names and
8 ages?

9 A. The first is Christian Jonathan Lechuga. The
10 second is Anna Lechuga. The third is Dana Lechuga. The
11 fourth is Jose Angel Lechuga.

12 Q. And how old are they?

13 A. The oldest is 24 years old, the following just
14 turned 18, the next is 16, and my boy is 6 years old.

15 Q. Your husband testified that as a result of the loss
16 of your business that you're in the process of moving?

17 A. Yes. We are moving to Arkansas.

18 Q. Can you explain to us what effect this has had on
19 your family?

20 A. We have been affected because we took our daughters
21 to Arkansas and left them there, and we had to come back to
22 finish cleaning out the house. We're separated.

23 we're spending a lot of money because it is very
24 cold every day. We had to buy oil for our home daily,
25 because we didn't know when we would finish, and we weren't

□

1 able to buy a large amount because we were just clearing the
2 house, because the sheriff told us that we had to leave the
3 house, and I don't know what is going on with that, whether
4 we lost it, and so we just wanted to salvage some of the
5 things that we had inside. We have been greatly affected.

6 MS. ALVAREZ: No further questions.

7 CROSS EXAMINATION

8 BY MR. MAHONEY:

9 Q. Mrs. Lechuga, you moved, or you are moving to
10 Arkansas because you're losing your house here in Hazleton,
11 correct?

12 A. Yes.

13 Q. And you lost your house in Hazleton because the
14 mortgage company foreclosed on you, is that right?

15 A. Yes.

16 Q. And you do agree with your husband's testimony that
17 you hadn't paid your mortgage for over a year, is that right?

18 A. Yes.

19 Q. With regard to the police outside of your
20 restaurant, I want to know where is your restaurant in
21 relation to Broad Street in Hazleton?

22 A. It is on Wyoming. It is 58.

23 Q. And how far away is Broad Street?

24 A. About two streets down.

25 Q. Would you agree that the restaurant is in the heart

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1 of the business community, the Latino business community?

2 A. True.

3 Q. Isn't it true that over the course of time in 2005
4 and 2006 there was an increase in crime in that neighborhood?

5 A. I think there was.

6 Q. And isn't it a fact that several of the Latino
7 business owners had asked for a greater police presence
8 because of that crime?

9 A. Myself, personally, I was never affected, because I

10 didn't had those problems, but I was aware of crime. All I
11 can say is that there is still crime, it is still the same.

12 Q. But you're aware that certain of your business
13 neighbors to the restaurant asked for an increased police
14 presence in the neighborhood?

15 A. No, I didn't know that.

16 Q. The incident where the police officer came into
17 your restaurant, wasn't there an altercation between two of
18 your customers which necessitated the police coming in?

19 A. No.

20 Q. You don't recall it?

21 A. No. I'm not sure.

22 MR. MAHONEY: That's all I have.

23 MS. ALVAREZ: May I have redirect, Your Honor?

24 THE COURT: Yes.

25 REDIRECT EXAMINATION

□

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1 BY MS. ALVAREZ:

2 Q. Mrs. Lechuga, you just testified that there was
3 some crime in the area.

4 Was there crime in your restaurant?

5 A. No.

6 Q. Where would the police stand?

7 A. Right in front of the restaurant, right by the side
8 of the entrance door. There is also an intersecting street.
9 I don't remember the name of that street, but the police
10 would also stop there.

11 Q. Did you ever witness any crime right outside of
12 your restaurant?

13 A. No.

14 Q. You also testified that you lost some business in
15 your restaurant?

16 A. Yes.

17 Q. Did you speak to any former customers about why
18 they stopped coming?

19 A. Yes, I did speak to many of them, and they said --
20 they told me the same thing, because they didn't like what
21 was happening. They would hear about it on the radio, on the
22 television, in the newspapers, that the Hazleton Police were
23 stopping all of the people that were coming through and
24 asking for their documents or licenses, and the majority of
25 my clients back then were traveling from Longsworth.

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1 They would come to us from there to eat in the
2 restaurant, and they no longer wanted to. The person that
3 would bring them there told them that he was no longer going
4 to bring them because he wanted to avoid problems. He didn't
5 want to be stopped by the police. They would stop them and
6 check them to see if they were documented or if they had any
7 documents on them or licenses, and, yes, that they were
8 indeed contracted from Mexico, but that they did not want any
9 problems.

10 MS. ALVAREZ: I have no further questions.

11 MR. MAHONEY: Briefly, Your Honor?

12 THE COURT: Yes.

13 RECROSS EXAMINATION

14 BY MR. MAHONEY:

15 Q. Mrs. Lechuga, did you ever tell the police not to
16 patrol at your restaurant?

17 A. Well, yes, I did ask the police officer what he was
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18 doing inside, if he needed something. He said nothing. I'm
19 just doing my routine job, and then he left, but he had
20 already questioned two people that there were there. He
21 asked them their names.

22 Q. Were you aware that there was an incident in a park
23 where kids were fighting close to the restaurant?

24 A. No, I didn't know about that.

25 Q. Weren't you glad that the police were being

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1 vigilant about patrolling in your neighborhood?

2 A. Yes, I was glad, but I didn't want them right in
3 front of my restaurant. I didn't ask them to stay in front
4 of my restaurant.

5 MR. MAHONEY: That's all I have.

6 THE COURT: Thank you very much. The witness is
7 excused.

8 MR. VAIDA: Pedro Lozano.

9 PEDRO LOZANO, called as a witness, having been duly sworn or
10 affirmed according to law, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. VAIDA:

13 Q. Mr. Lozano, how old are you?

14 A. I'm 56 years old. I will be 57 in May.

15 Q. Where were you born?

16 A. I was born in Medellin, Colombia.

17 Q. When did you come to the United States?

18 A. I came here January 22nd, 2002.

19 Q. Why?

20 A. I came here in search of a better life.

21 Q. Did you enter legally into the United States?

22 A. Yes, with a visa.
23 Q. And you're a lawful resident alien?
24 A. Yes.
25 Q. What is your marital status?

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1 A. I'm married.
2 Q. Do you have any children here in the United States?
3 A. I have two children from my wife.
4 Q. But none of your own here?
5 A. Well, I consider them my children.
6 Q. They're not your biological children?
7 A. No, not biologically, no.
8 Q. How old are they?
9 A. Twelve and 28.
10 Q. What is your educational background?
11 A. In my country, I finished high school, and I took
12 three semesters of human resources business administration,
13 and for 35 years, I was a member of the National Police Force
14 where I completed my career as a police officer.
15 Q. What rank did you achieve in the National Police
16 Force?
17 A. Sergeant major commissary.
18 Q. Are you currently employed?
19 A. Not presently.
20 Q. Why not?
21 A. I have trouble because of my wife's health. It
22 does not allow me to keep a regular job. At any moment, I
23 might have to take her to the hospital.
24 Q. When were you last employed?
25 A. September of last year.

1 Q. where?
2 A. In the Car Grill Excel.
3 Q. For how long?
4 A. Almost two years.
5 Q. what did you do?
6 A. Scale operator.
7 Q. So you would weigh things?
8 A. Yes.
9 Q. Are you currently looking for employment?
10 A. Yes.
11 Q. And where are you looking for employment?
12 A. well, in the area which I live, that's Hazleton.
13 Q. what kind of work are you looking for?
14 A. Anything that would for allow me to continue to be
15 there for my wife.
16 Q. So you need a job that is flexible enough to be
17 with your wife's physical situation?
18 A. Yes, sir.
19 Q. where do you live?
20 A. In Hazleton at 638 West Diamond.
21 Q. Do you own your property?
22 A. Yes.
23 Q. when did you purchase it?
24 A. In '85, April or May.
25 Q. Do you mean 2005?

1 A. Yes. I'm sorry. what did I say?

2 Q. You first said 1985.
3 A. I'm sorry.
4 Q. You mean 2005?
5 A. 2005.
6 Q. In fact, it was April 25th of 2005?
7 A. Yes. Between April and May sometime.
8 Q. And why did you buy a house in Hazleton?
9 A. That is the American dream to own your home. I
10 purchased a two-family so that I could have assistance with
11 the mortgage.
12 Q. Where were you living before you came to Hazleton?
13 A. I was living in New York.
14 Q. Where in New York?
15 A. In Jamaica, Queens.
16 Q. Did you own your property in Jamaica, Queens?
17 A. No.
18 Q. So what was it about Hazleton that made it
19 attractive to you to move your family from Jamaica, Queens
20 out here?
21 A. Well, everything is less expensive; rent,
22 everything is less expensive. I had better perspectives here
23 than in New York.
24 Q. Did you have to secure a mortgage to buy your
25 property?

□

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1 A. Of course, I took a loan.
2 Q. Does anyone live with you at 638 West Diamond
3 Street?
4 A. My wife, my two children, my mother-in-law.
5 Q. Now, this property is a double unit?

6 A. Yes, just one mortgage.
7 Q. What is the address for the other unit?
8 A. 640 West Diamond.
9 Q. Is that property which you are able to rent?
10 A. Yes.
11 Q. Now, how soon after you purchased the property on
12 April 25th of 2005 did you begin renting 640 West Diamond
13 Street?
14 A. As soon as I signed for the mortgage, I rented it.
15 Q. And was it continually rented thereafter?
16 A. Yes, sir.
17 Q. And then did there come a time when you were no
18 longer renting that property?
19 A. When the possibility of criminalizing the process
20 of renting to an illegal alien. From that point on, I
21 stopped renting, and the tenants that were there ran away.
22 Q. Approximately, when did you first hear about the
23 ordinance that would criminalize renting to undocumented
24 aliens?
25 A. Well, first it was just rumors amongst the people

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1 when this would occur. Afterwards, I attended a meeting on
2 Wyoming, and that is when I was really informed about what
3 the ordinance could entail.
4 Q. Do you remember when the approximate date of that
5 meeting was?
6 A. I think that was like in the middle of the year
7 before last.
8 Q. Do you mean the middle of last year?
9 A. Yes.

10 Q. 2006?

11 A. Yes.

12 Q. Do you know if it was in the summer or winter, do
13 you have some sense of time?

14 A. I think it was like the end of spring or the middle
15 of spring.

16 Q. So would that be May, June?

17 A. About that.

18 Q. So was that also the approximate time that you
19 started having the tenants no longer -- strike that.

20 what happened with your tenants around the time
21 that you heard about the ordinance?

22 A. Well, they told me that they were going to vacate
23 and they did.

24 MR. ADAIR: Objection, Your Honor, hearsay.

25 MR. VAIDA: I can rephrase the question.

□

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1 THE COURT: Rephrase it.

2 BY MR. VAIDA:

3 Q. Did you speak with your --

4 THE COURT: The reason I stopped is I didn't know
5 whether you were going to make a reply or not to the
6 objection.

7 Rephrase it.

8 BY MR. VAIDA:

9 Q. Did you speak with your tenants about the
10 ordinance?

11 A. When the rumors about the ordinance began, they
12 became nervous and they told me that they were going to
13 leave.

14 THE COURT: Sustain the objection. Strike that
15 last answer.

16 BY MR. VAIDA:

17 Q. I'm asking you what you told them.

18 Did you discuss with them the ordinance?

19 A. Yes, that they possibly might have to go to City
20 Hall to legalize the rental agreement.

21 Q. Say that again.

22 A. That they might possibly have to go to City Hall to
23 complete an application to rent.

24 Q. Did you say anything else to them about what they
25 would have to do?

□

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1 A. No, that is just the only comment that I made and
2 then they left.

3 Q. Did they leave after you had this conversation with
4 them?

5 A. Yes.

6 Q. Now, did you attempt to continue renting 640 West
7 Diamond Street after your tenants left on or about May,
8 June of 2006?

9 A. Obviously, because they were paying part of the
10 mortgage, but I have only been able to sporadically rent the
11 location. I haven't been able to rent it continuously.

12 Q. About how many prospective tenants would you say
13 inquired about living at 640 West Diamond Street?

14 A. Maybe five or six or more. They would see the
15 apartment ^ , they would like it, but they wouldn't return.

16 Q. Now, with your prospective tenants, did you discuss
17 with them the requirements of the ordinance?

18 A. Obviously, I have to tell them.

19 Q. What was the reaction of the prospective tenants
20 when you told them what the ordinance required of them?

21 A. One of them asked, what are they going to ask me
22 for over there? I told him, you have to take documents.

23 MR. ADAIR: My objection is to what the prospective
24 tenant told Mr. Lozano, not to what he said to the
25 prospective tenant.

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1 MR. VAIDA: He was recounting his response.

2 THE COURT: I will sustain the objection.

3 You can rephrase the question.

4 BY MR. VAIDA:

5 Q. So you were saying something about telling your
6 prospective tenants that they had to take documents to City
7 Hall?

8 A. Well, he asked me what he might possibly have to
9 do.

10 Q. The question is, what did you tell him in response
11 to that?

12 A. That he possibly had to go to City Hall if the
13 ordinance was enacted.

14 Q. I believe you mentioned before about documents.
15 Did you make any comments to them about having to take
16 documents to City Hall?

17 A. Well, that was his question, what would I have to
18 take.

19 Q. And what did you say?

20 A. That he would possibly have to take documents or
21 I.D.

22 Q. Did you make ^{lozanod1.txt} clear what the purpose of the
23 documents or I.D. would be?

24 A. No.

25 Q. Was it your understanding that the ordinance

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1 required that documents be produced to determine if the
2 person seeking the permit was an undocumented alien or not?

3 A. I'm sorry. Could you repeat the question again?

4 Q. Yes. Was it your understanding of the ordinance
5 that a prospective tenant would have to take documents to
6 City Hall for City Hall to determine whether or not that
7 person was an illegal alien or not?

8 A. I think that anything you want to get done with the
9 City, you have to take identification.

10 Q. Let me ask you this question, what happened to
11 these -- and excuse me if I asked this already -- what
12 happened to these prospective tenants after you had these
13 conversations with them?

14 A. Well, they all left.

15 Q. Now, have you ever inquired as to the immigration
16 status to any of your tenants or prospective tenants?

17 A. You have to be very careful with things like that,
18 because if I ask a person for their documents, as a civilian,
19 that could be seen as a form of discrimination, and if that
20 person then believes that I did not rent to him or her
21 because he or she is not documented, he or she might be able
22 to sue me, because there is a law here, a housing law that
23 says you cannot discriminate.

24 Another situation would be that if I were to ask
25 for documentation, I don't have any experience to know

1 whether it is a valid copy or if it's a forgery. In many
2 cases, even police have to take special courses to deal with
3 immigration issues.

4 Q. Do you have any special training with immigration?

5 A. No, sir.

6 Q. Do you consider yourself qualified to determine
7 whether or not someone is in the United States legally?

8 A. No, sir.

9 Q. Now, are you personally aware of any other
10 properties in Hazleton that have been affected by the
11 immigration ordinance?

12 THE COURT: What was the question?

13 BY MR. VAIDA:

14 Q. Are you personally aware of any other properties in
15 Hazleton that have been affected by the immigration
16 ordinance?

17 A. Yes.

18 Q. How are you aware of that? What is the basis of
19 your personal knowledge?

20 A. My wife is a lady who has friends everywhere. When
21 we came here, friends of my wife would ask, how is life in
22 Hazleton? How is the property? Things like that.

23 MR. ADAIR: Objection, Your Honor, hearsay.

24 MR. VAIDA: Judge, it is something not offered for
25 its truth.

□

1 THE COURT: Overruled.

2 THE WITNESS: And many of her friends and many
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3 people purchased homes in Hazleton, and they asked her if she
4 could do them a favor of finding tenants. Those people
5 perhaps have or are going through a different economic
6 situation, but they are also suffering through the inability
7 of renting their homes.

8 BY MR. VAIDA:

9 Q. First of all, how many properties are we talking
10 about?

11 A. Six properties.

12 Q. Do you recall the addresses of these properties, if
13 you remember?

14 A. It is difficult to have something like that in
15 mind, but I believe there is one on West Broad close to 15th,
16 another around Ice, another around East Broad, a little past
17 the hospital. There is another on Vine as you reach the
18 projects. That is it.

19 Q. With all of these properties, did you personally
20 attempt to help out your wife's friends by finding them
21 tenants?

22 A. Yes, because they lived in New York, and they would
23 put down my telephone number in the ad so I could show them
24 the house.

25 Q. You mean the property owners lived in New York?

□

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1 A. Yes.

2 Q. They would put ads in the Hazleton area?

3 A. Just a sign saying for rent.

4 Q. With your phone number?

5 A. Yes.

6 Q. And would you receive the calls from prospective

7 tenants for those properties?

8 A. Yes. Yes.

9 Q. Did you intercede in making sure that these tenants
10 got in contact with the landlord and they actually rented the
11 property?

12 THE COURT: What was the question?

13 MR. VAIDA: Would he intercede in making sure that,
14 in fact, it came to fruition that they had tenants.

15 THE WITNESS: Well, after showing the property, I
16 would tell them, you would have to speak to the owner to find
17 out how much it is renting for, et cetera.

18 BY MR. VAIDA:

19 Q. Would you go to these properties that you're
20 talking about and do work?

21 A. To do what?

22 Q. Work.

23 A. Well, yes, if something has to be done, I will do
24 it.

25 Q. Did you get to personally observe that the people

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1 you have spoken to as prospective tenants were, in fact,
2 living in those properties?

3 A. Yes, of course.

4 Q. So what was the effect of the ordinance of these
5 people that you personally knew were living in those
6 properties?

7 A. Well, the first two individuals that rented left.
8 The others waited a month, and at this moment, the properties
9 are being rented irregularly.

10 Q. Do you attribute the problems with renting these

11 properties to the enactment of the ordinance?

12 A. Not completely, but it is a factor in this.

13 Q. Now, are you aware of an ordinance that would make
14 it illegal to hire an undocumented alien from performing work
15 in Hazleton?

16 A. Well, when I received the work permit, my
17 understanding is that that is federally issued, and when I
18 worked in New York, if I didn't have work permit, because of
19 immigration, you couldn't work anyway. I think that is
20 common knowledge because the Federal laws handle that.

21 If the City orders it, then I guess you have to
22 comply with it as well.

23 Q. Do you make routine repairs on your property?

24 A. Yes. What I'm able to do, I do myself.

25 Q. Are there some things you can't do?

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1 A. Yes, of course.

2 Q. Like what, for example?

3 A. For example, get onto the roof of my home. I might
4 fall.

5 Q. So do you contemplate hiring a contractor to do the
6 roofing work?

7 A. Yes, of course.

8 Q. And do you have a way to determine the immigration
9 status of the person that you will hire to do the roofing
10 work?

11 A. I'm not trained or capable to do that.

12 Q. Mr. Lozano, I may have asked you this, but just to
13 make sure, were the properties, both your property and the
14 ones that we were discussing, the additional ones, were they

15 regularly rented before the passage of the ordinance?

16 A. Everything was calm until the rumors about the
17 ordinance began.

18 Q. Was that a yes? Why don't you answer directly?

19 A. Well, what do you want me to respond?

20 Q. We want to know what it was like before the
21 ordinance was enacted.

22 The question is, were those properties regularly
23 rented?

24 A. Yes, they were regularly rented.

25 Q. By the way, your wife is an American citizen?

□

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1 A. Yes.

2 Q. And her son is an American citizen, too?

3 A. Yes, born here.

4 Q. He's 12, is it?

5 A. Yes.

6 Q. And does he go to the Hazleton School District?

7 A. Of course.

8 Q. And does he avail himself of the Hazleton Health
9 Care System?

10 A. I don't understand the question.

11 Q. If he needs health care, does he go to the local
12 hospital and local doctor?

13 A. Yes, obviously. Of course. He has his general
14 doctor.

15 Q. As does your wife, I presume.

16 A. Yes.

17 Q. And your daughter?

18 A. She hardly gets sick, no.

19 Q. And you, I assume?

20 A. Yes. Yes.

21 MR. VAIDA: Thank you, Your Honor. That is all I
22 have.

23 CROSS EXAMINATION

24 BY MR. ADAIR:

25 Q. Sir, I would like to ask you some questions.

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1 The properties that you currently own, isn't it
2 true that you have two rental units in that property?

3 A. Yes.

4 Q. And this is, I believe the property that you
5 indicated was at 638 and 640 Diamond Street?

6 A. Yes. Yes.

7 Q. And in those two rental units, you have a bigger
8 unit and a smaller unit, correct?

9 A. Yes, of course.

10 Q. And before the ordinances, you were renting
11 those -- the smaller unit for \$650 a month and the bigger
12 unit for \$700 a month?

13 A. Yes. Yes.

14 Q. Currently you're renting the smaller unit to your
15 daughter, aren't you?

16 A. No. My daughter left in January to her own home.

17 Q. You rented to your daughter for several months
18 prior to January, correct?

19 A. Yes. Yes.

20 Q. And you were renting that to her for \$650 a month,
21 correct?

22 A. Yes. I gave her special treatment, and I didn't

23 charge her for water or heat or light.

24 Q. So when you said you gave her special treatment and
25 didn't charge her for water, heat and electric, were you

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1 charging your tenants, the prior tenants, for water, heat and
2 electric?

3 A. Yes. Well, just so that it is clear, 640 has two
4 apartments. So I purchased it that way so I could have help
5 with the mortgage. When it became difficult to rent the
6 apartment, I called my daughter so she could occupy one of
7 the apartments. It is better to receive less than nothing.

8 The other apartment that is a little larger, after
9 renting it for \$700, now I'm actually renting it for \$285 to
10 Section Eight just so that I could recover something, and the
11 apartment where my daughter lived is vacant.

12 Q. When you were renting to your daughter and giving
13 her special treatment and not charging her for water and
14 heat, just so that I'm clear, your daughter, she is a legal
15 resident in the United States?

16 A. Yes, of course.

17 Q. Sir, I would like you to open up the book in front
18 of you. It is marked as Defense Exhibit 5 to Exhibit 240.

19 Mr. Lozano, the exhibit that you are looking at,
20 that is your 2005 year-end tax return, is that correct?

21 A. Yes.

22 Q. I would like you to turn to the sixth page, which
23 is Schedule E, supplemental income and loss.

24 Sir, you would agree with me that you testified
25 earlier from the time when you purchased the property in

1 April of 2005, until the ordinances were passed, you had
2 filled your rental units pretty much consistently, correctly?

3 A. Yes.

4 Q. You also testified that you were renting those
5 units for \$650 and \$700, correct?

6 A. Yes.

7 Q. I would like you to take a look at the supplemental
8 income and loss statement there, and that is for your rental
9 property, correct?

10 A. Yes.

11 Q. If you look at Line No. 3 under income, it says
12 that rents received for year 2005 was \$4,300, correct?

13 A. Yes.

14 Q. And you would agree with me, sir, would you not,
15 that that number does not reflect renting out a unit for \$650
16 and for \$700 for eight months of the year, correct?

17 A. Well, that is what I received. That is what I
18 received in rent.

19 Q. Sir, if you would answer my question, please. That
20 number does not reflect receiving \$650 and \$700 for eight
21 months of the year, is that correct?

22 A. No. No. No. This is \$4,800, and that is what I
23 received in rent. It doesn't mean it was occupied for that
24 eight months. That is what it adds up to, or the person who
25 filed my taxes or prepared my taxes. Anyway, that is what I

1 received.

2 Q. Mr. Lozano, I would like to look at some of these

3 other numbers underneath that, perhaps.

4 For the year 2005, you received, you're saying now,
5 \$4,300, correct?

6 A. Well, on Line 3 it says, 4,300, yes.

7 Q. Sir, did you provide that information to your
8 accountant?

9 A. Well, the person that prepared this.

10 Q. You provided it to the person that prepared this
11 return, correct?

12 A. Yes, of course.

13 Q. Sir, this document reflects that while you received
14 \$4,300 in tax year 2005, if you look down at Line 21, your
15 expenses on that piece of property were \$13,095, correct?

16 A. Yes. Oil kills you.

17 Q. Sir, speaking of oil, you indicated earlier that
18 you were cutting your daughter a special deal, and you were
19 providing her with oil, water and heat, correct?

20 A. Yes.

21 Q. That was not a benefit that you were providing to
22 your other tenants, correct?

23 A. No, because, of course, you sacrifice for your
24 children, and that is how she was able to put her own money
25 together to buy her own house.

□

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1 Q. I would like you to take a look at Line 18 under
2 expenses. The first entry says, oil, and it indicates an
3 expense of \$3,600 for 2005, correct?

4 A. Yes.

5 Q. And the next line under light indicates an expense
6 of \$1,080 for 2005, correct?

7 A. Yes.

8 Q. The next line indicates water for \$700 for 2005,
9 correct?

10 A. Yes.

11 Q. These are all expenses that your tax return
12 indicates that you paid, correct?

13 A. Clearly.

14 Q. Sir, this tax return indicates that you lost on
15 this property \$8,795 for 2005, correct?

16 A. Yes.

17 Q. Sir, you testified that you do all the work on your
18 property yourself, correct?

19 A. Yes.

20 Q. Except for things that are out of your abilities,
21 correct?

22 A. Clearly.

23 Q. When I took your deposition in December 2005, I
24 asked you whether you had any present intention of hiring any
25 contractors to work on your house. Do you recall that?

□

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1 A. Yes.

2 Q. At the time, you told me that you had no intention
3 to hire any contractors on your rental unit. Do you recall
4 that?

5 A. That was in November or December of last year.

6 Q. That was in December.

7 A. But now I have problems with my roof so I have to
8 hire someone.

9 Q. Sir, you have not contacted, as you sit here today,
10 any roofers to work on your house, have you?

11 A. No, because I don't have the money to pay for it,
12 but as soon as I have it, I have to do that.

13 Q. You haven't got an estimate, have you?

14 A. Well, I spoke to a person that was fixing another
15 roof close by, and he told me that he was going to charge me
16 \$7,500, and I said I would think about it, and I'm still
17 thinking about it.

18 Q. Sir, you indicated you had trouble renting out your
19 apartment, correct?

20 A. Yes, of course, and I'm going to continue to lose
21 there.

22 Q. To rent your apartment, you never placed any ads in
23 a newspaper, did you?

24 A. No.

25 Q. The only advertisements you did was put up a sign

□

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1 in the house?

2 A. Yes, the sign.

3 Q. You indicated today that you had five or six people
4 that looked at your house, but then didn't come back to rent
5 the house, correct?

6 A. Yes.

7 Q. And as we sit here today, you don't know whether
8 those people rented another house in Hazleton, do you?

9 A. Even if I was a magician, I couldn't tell you where
10 those people went.

11 Q. You don't know the names of any of those people,
12 correct?

13 A. No.

14 Q. You don't know if they moved to New York City, do

15 you?

16 A. I don't know.

17 Q. You don't know if they just didn't rent your house
18 because maybe they didn't like it, do you?

19 A. Well, you could tell when a person likes the
20 property; I'm going to speak to my wife, or I will call you.
21 I will call you. This is nice for my children, but they
22 didn't return.

23 Q. Of all those people that looked at your house, you
24 don't know the immigration status of any of them, do you?

25 A. Like I said before, I'm unable to determine if they

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1 were or if they weren't, if they had or if they didn't have.
2 Someone even left a deposit and never returned.

3 Q. Sir, you indicated when I took your deposition that
4 one of the people that looked at your house was, in your
5 words, an American lady or an English lady. Do you recall
6 telling me that?

7 A. Yes, of course. She didn't return either.

8 Q. She didn't return either, did she?

9 A. No.

10 Q. And you told me at your deposition that she even
11 told you that she liked the place and she was going to come
12 back with papers, correct?

13 A. Clearly, yes. Afterwards, I realized that she was
14 a lady who was getting divorced from her husband. She went,
15 she looked at the apartment and she liked it, but she didn't
16 return either.

17 Q. So you don't know whether she didn't rent that
18 place because of the ordinance either, did you?

19 A. No. You see, I can't determine whether or not the
20 ordinance is detrimental or if it is benefiting me, but I can
21 say that it is not being rented now the way it was being
22 rented out before.

23 Q. Sir, are you aware that it is a Federal crime to
24 harbor an illegal alien knowingly in your rental unit?

25 A. Well, if that is the case, I wouldn't harbor it in

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1 my home. It's a difficult situation. If a person comes over
2 and asks me to help, they say, I don't have anywhere to stay,
3 I don't have anywhere to live, and then I find out later that
4 they are undocumented, then I might have to go to jail
5 because I was just trying to help my fellow brother. What
6 you're saying is I can't help anyone at all just because they
7 are undocumented. I don't know.

8 Q. Sir, isn't it true that under the City of
9 Hazleton's ordinances, you're not required to determine
10 whether an immigration document is valid or invalid, correct?

11 A. Could you repeat that, because I didn't understand
12 that?

13 Q. Sir, isn't it true that the City of Hazleton's
14 ordinance does not require you to determine the validity of
15 an immigration document?

16 A. Well, I would be unable to determine whether or not
17 it was valid at all.

18 Q. Sir, my question is, isn't it true that the City of
19 Hazleton's ordinance does not require you to determine the
20 validity of an immigration document?

21 A. When I'm told that a person that I may possibly be
22 renting to is an illegal alien, if they are illegally here, I

23 will have to pay a fine, and in the event, I will have to
24 evict them, and then, obviously, I will be obligated to
25 determine whether that person is here illegally or not.

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1 I am trying to avoid finding myself in that
2 problem. I don't want to be discriminated against, so I'm
3 not going to discriminate. I'm sorry that that is the way
4 I'm expressing myself.

5 Q. Mr. Lozano, with all due respect, I will ask the
6 question again, because you haven't answered it.

7 Isn't it true that the City of Hazleton's ordinance
8 does not require you to determine validity?

9 MR. VAIDA: I think counsel has now started arguing
10 with the witness.

11 MR. ADAIR: Your Honor, I'm just looking for an
12 answer to the question.

13 MR. VAIDA: The ordinance speaks for itself.

14 THE COURT: Can you answer the question?

15 THE WITNESS: The ordinance has gone through a
16 metamorphosis since it first came out. So at this moment,
17 I'm unable to determine what the status or situation of the
18 ordinance is, and when it's enacted, what is going to be good
19 about it or bad about it. I'm unable to respond to that
20 question. I can't say yes or no, because I don't know the
21 state of the ordinance.

22 BY MR. ADAIR:

23 Q. Isn't it true that at no time you ever approached
24 any City officials to ask for clarification of the ordinance?

25 A. No. No. No. No.

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1 Q. Sir, the two people that you said moved out right
2 after the ordinances were passed, you don't know the
3 immigration status of either one of those people, do you?

4 A. Yes. They were undocumented, but I never asked
5 them whether they were undocumented or not. I realized that
6 because of this, but I never asked them, do you have any
7 papers?

8 Q. It is your belief, but they never indicated to you
9 their status, did they?

10 A. I will repeat again. If I tell somebody, if you
11 don't have any documents, you can't rent my home, then I will
12 be discriminating.

13 Q. Again, they never indicated to you, they never said
14 that they were illegal, did they?

15 A. I didn't need to be told. I mean, they left.

16 Q. Sir, you were testifying earlier about a number of
17 properties that you're aware of that are not rented.

18 In fact, you referenced a property on West Broad
19 Street by 15th Street. That property is not in the City of
20 Hazleton, is it?

21 A. Well, Hazleton divides and you don't even realize
22 that you're not in Hazleton. Whether it is West Hazleton or
23 not, it is Hazleton.

24 Q. So that property is in West Hazleton, correct?

25 A. Yes.

□

1 Q. You're also referencing --

2 A. Well, you ask -- or I was asked if I knew of
3 properties that I had helped individuals with, and I

4 mentioned the properties.

5 Q. You also referenced a property on Vine Street, and
6 that property is in Hazle Township, correct?

7 A. It is where?

8 Q. In Hazle Township, correct?

9 A. I don't know. It is all together there. It's
10 close to the projects, the housing projects. I didn't know
11 that it wasn't Hazleton. No, I didn't know that that wasn't
12 Hazleton.

13 Q. So, sir, you would agree with me that you're not
14 just having problems renting properties in the City of
15 Hazleton, you're having problems renting properties outside
16 of the City of Hazleton as well, correct?

17 A. Well, let's see. I hadn't thought of it from that
18 point of view, because I didn't know what the City limits
19 were, and I wasn't aware that it was not a part of Hazleton,
20 but it is very close. It is right there.

21 Q. So you would agree with me, though, that you are
22 having trouble renting properties in Hazleton, as well as
23 outside the City of Hazleton?

24 A. Yes, but it is close to Hazleton. I mean, it is
25 right there.

□

1 Q. Sir, you're not telling the Court that you were
2 terminated from your job as a result of the ordinances, are
3 you?

4 A. No, never. I never said that.

5 Q. But that is correct, and I'm not trying to
6 misrepresent that.

7 The reason you're not working is because of your
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8 wife's health, correct?

9 A. Because of problems with my wife's health, yes.

10 MR. ADAIR: If I may have a moment.

11 I don't have any further questions.

12 THE COURT: Do you have any?

13 MR. VAIDA: Very brief, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. VAIDA:

16 Q. Mr. Lozano, turning to the exhibit that counsel was
17 talking about, that would be for part of the year 2005,
18 right?

19 A. Yes, part of the year.

20 Q. Not the whole year?

21 A. No.

22 Q. And after you bought the property, you had to get
23 it ready to be rented, right?

24 A. Yes. That is why there are about \$4,000 worth of
25 repairs there.

□

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1 Q. So was there some time delay between the time you
2 purchased the property and actually rented the property?

3 A. I had to move fast, because the first mortgage
4 payment was expected.

5 Q. Can you estimate how much time before you started
6 renting the property after April?

7 A. I would say the month that you can have the
8 property and not pay, that was the time that I used to
9 prepare the property.

10 Q. So you started renting in June, would that be
11 correct?

12 A. Yes.

13 Q. Now, counsel asked you if you knew that the two
14 tenants that left were undocumented aliens or not, and you
15 said, yes, even though you never asked them that question.

16 Do you remember saying that?

17 A. Yes, or course.

18 Q. What is the factual basis for your belief that they
19 were undocumented aliens?

20 A. Well, because of the fear they demonstrated once
21 they knew what was happening. They have or had children in
22 the schools, and they were afraid and left, that was it.

23 Q. Were you able to observe their fear?

24 A. Well, the fact that one of them said, I can't live
25 here anymore.

□

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1 MR. VAIDA: Thank you.

2 MR. ADAIR: I don't have anything further.

3 THE COURT: The witness is excused. Thank you.

4 Ladies and gentlemen, we accomplished a lot today,
5 and we got the openings in and got four witnesses completed.

6 We will stand adjourned until tomorrow. Thank you.

7 (At this time, the proceedings in the
8 above-captioned matter adjourned.)

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