12-1853

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

ADRIANA AGUILAR, ANDRES LEON, ELENA LEON, GABRIELA GARCIA-LEON, CARSON AGUILAR NELLY AMAYA, MARIO PATZAN DELEON, DAVID LAZARO PEREZ, WILLIAM LAZARO, TARCIS SAPON-DIAZ, SONIA BONILLA, BEATRIZ VELASQUEZ, DALIA VELASQUEZ, YONI REVOLORIO, JUAN JOSE MIJANGOS, GONZALO ESCALANTE, VICTOR PINEDA MORALES, PELAGIA DE LA ROSA DELGADO, ANTHONY JIMENEZ, CHRISTOPHER JIMENEZ, and BRYAN JIMENEZ, on behalf of themselves and all others similarly situated,

Plaintiffs-Petitioners,

v.

IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, JANET NAPOLITANO, United States Secretary of the Department of Homeland Security, JOHN MORTON, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement, *et al.*,

Defendants-Respondents.

From an Order Denying Certification of a Class Entered on April 16, 2012,
by the United States District Court for the Southern District of New York,
Civil Action No. 07-CIV-8224
The Honorable Katherine B. Forrest

BRIEF OF *AMICI CURIAE* OF SOUTHERN POVERTY LAW CENTER, *ET AL.*, IN SUPPORT OF PETITIONERS

Avani P. Bhatt
ROBINS, KAPLAN, MILLER & CIRESI
Attorneys for Amici Curiae
Southern Poverty Law Center, et al.
601 Lexington Avenue, Suite 3400
New York, New York 10022
212-980-7400

LIST OF AMICI CURIAE[1]

The Southern Poverty Law Center

The Center for Social Justice at Seton Hall University School of Law

The Immigrant Defense Project

The Immigration Justice Clinic

The Long Island Immigrant Alliance

The National Immigration Project of the National Lawyers Guild

New York Immigration Coalition

Northern Manhattan Coalition for Immigrant Rights

The Westchester Hispanic Coalition

[1] *See* Amici Statements of Interest at Appendix A.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Cases

Statutes

INTEREST OF *AMICI CURIAE*[2]

The civil and immigrant rights *amici* are nonprofit organizations dedicated to, among other goals, eradicating discrimination, defending immigrants' rights, and seeking justice for the most vulnerable members of society. All of the *amici* represent or counsel victims of civil rights violations who will be adversely affected if this Court upholds the Southern District of New York's misinterpretation of *Wal-Mart v. Dukes*, and its reasoning for denying class certification. 131 S. Ct. 2541 (2011).

Amici, their clients, and their constituents have relied on class actions and/or injunctive relief as an indispensable tool for combating systemic civil rights violations. Accordingly, the *amici* offer their views on this issue so essential to the constituencies they serve.

SUMMARY OF DISCUSSION

Class actions have been successfully used for decades to combat constitutional violations. However, in denying class certification, the District Court has gone far beyond *Wal-Mart* in creating additional layers of unprecedented requirements that thwart civil rights class certification. Specifically, the District

---

[2] Pursuant to Fed. R. App. P. 29(c)(5) and Local Rule 29.1(b) of the United States Court of Appeals for the Second Circuit, *amici* hereby certify that no party's counsel authored this brief in whole or in part; no party or party's counsel contributed money intended to fund preparing or submitting the brief; and no person other than *amici* contributed money intended to fund preparing or submitting the brief. All parties have consented to the filing of this brief.

Court required not only that plaintiffs produce evidence of defendants' *de facto* unconstitutional practices—which they did—but that they further produce up-to-the-minute evidence of continued constitutional violations even when the defendants admitted that the challenged policies remained in force. If the District Court's new requirements were widely adopted, class certification in civil rights actions would become impossible under almost any set of facts. Therefore, this Court's review is critical.

DISCUSSION

I. The District Court Misapplied *Wal-Mart* To Create Additional – And Unprecedented – Obstacles for Plaintiffs Seeking Class Certification in Civil Rights Cases.

a. *Without properly considering plaintiffs' proof, the District Court made a decision on the merits as to the constitutionality of defendants' policies and conduct* .

The District Court assumes that because ICE prepared written policies to "prohibit the very type of misconduct alleged to have occurred here," ICE has no illegal policies that violate the Fourth or Fifth Amendment. *Aguilar v. Immigration and Customs Enforcement Div.*, No. 07-cv-8224, 2012 U.S. Dist. LEXIS 53367, at *14 (S.D.N.Y. Apr. 16, 2012). The District Court's analysis, however, ignores abundant evidence of other policies that encourage agents to violate residents' Fourth Amendment rights when entering and searching homes to detain residents within based on their perceived race, ethnicity and/or national

origin (*e.g.*, memoranda imposing an 800 percent increase in arrest quotas, and permitting arrest of non-target immigrants to meet those quotas). *See* Fourth Amended Class Action Complaint at ¶¶ 2-9 (D.I. 202). The undisputed evidence, coupled with plaintiffs' proof of the blatantly illegal searches and seizures by ICE, is more than sufficient to discharge plaintiffs' burden under *Wal-Mart*. If a District Court requires as proof a facially unlawful written policy, that court will never certify a class. Indeed, it is unlikely that any such policy exists, particularly in this day and age. *See, e.g.*, *Echorn v. AT & T Corp.*, 248 F.3d 131, 149 (3d Cir. 2001) ("smoking gun evidence" of intent to discriminate rarely found).

In deciding whether there are common questions of law or fact in this case, the District Court should have applied a preponderance of the evidence standard by evaluating plaintiffs' evidence that such policies and practices existed against defendants' evidence that they did not. *Aguilar*, 2012 U.S. Dist. LEXIS 53367 at *12 ("The party seeking class certification must demonstrate by a preponderance of the evidence that they have met the elements of Rule 23(a).,") (internal citation omitted). The District Court failed to do so. The District Court acknowledges that plaintiffs have shown the existence of certain challenged policies and denies commonality nonetheless, through a merits finding that erases plaintiffs' evidence by stating that defendants have claimed that the challenged policies and practices are lawful.

If allowed to stand, the decision will certainly lessen the chances of obtaining class certification by civil rights plaintiffs alleging harm from the application of unconstitutional policies, patterns and practices, and improperly transform class certification motions into merits hearings rather than a threshold examination on whether to certify the class.

b. *Class certification should not be denied because of the lack of recent, up-to-the-minute evidence of ICE home raids.*

After failing to properly weigh plaintiffs' evidence in its merits analysis, the District Court compounded the error by creating—and applying—a new barrier to certification found nowhere in *Wal-Mart* or in this Court's jurisprudence. Specifically, after acknowledging that plaintiffs presented abundant evidence to show that ICE engaged in a *de facto* pattern and practice of unconstitutional conduct in 2007 (the year the named plaintiffs' homes were raided), the District Court held that the five years it took plaintiffs to gather that evidence precluded class certification in 2012, because there "there is no evidence that defendants currently engage in ongoing misconduct with respect to such raids." *Aguilar*, 2012 U.S. Dist. LEXIS 53367 at *31. The District Court's reasoning is troubling.

First, the District Court dismisses plaintiffs' showing of continuing unconstitutional practices by ICE both in New York and on a national level. These ongoing practices are discussed in Plaintiffs' Motion to Certify Class [D.I. 294],

Plaintiffs' Reply Memorandum In Support Of Their Motion to Certify Class [D.I. 310], Plaintiffs' Supplemental Brief In Support of Their Motion for Class Certification [D.I. 334], and Plaintiffs' Supplemental Reply Brief In Support Of Their Motion for Class Certification [D.I. 341]. Moreover, the District Court cited no evidence of discipline or other actions that suggest the challenged behavior will not occur in the future.

Second, even if plaintiffs had produced no evidence of current violations, the District Court erred in assuming that a lack of up-to-the-minute evidence means that there are no ongoing violations. This assumption ignores the realities of litigation. Indeed, the District Court acknowledged that "discovery in this case closed some time ago," that, during the discovery period in this case, there was "voluminous document discovery" and there were "over 125 depositions." *Id.* at *9, 10. What the District Court failed to recognize is that the discovery cut-off effectively precluded plaintiffs from eliciting current information.

Third, the District Court's reasoning would encourage class action defendants not only to delay the progress of litigation—by objecting to discovery, filing motions for protective orders, and otherwise impeding prompt production of evidence—but to temporarily suspend the challenged misconduct, only to reinstate such conduct when class certification is denied. Such a result would be particularly unfair where, as here, plaintiffs have few economic resources and

limited access to representation while defendants have the enormous resources of the federal government behind them.

The purpose of class action injunctive relief is to "settl[e] the legality of *the behavior* with respect to the class as a whole." Fed. R. Civ. P. 23 Advisory Committee's note (emphasis added). It follows that the proper focus of a court's commonality analysis is on whether the allegations presented, including the challenged behavior, present questions of law or fact that are common to the proposed class, so that the legality of the behavior can ultimately be settled.

In addition, the District Court's reasoning is inconsistent with recent case law where similar classes were certified despite analogous lapses of time between the alleged unconstitutional conduct and the court's grant of certification. *See Ortega-Melendres v. Arpaio*, No. cv-07-2513, 2011 U.S. Dist. LEXIS 148223, at *4-5, 77-78 (D. Ariz. Dec. 23, 2011) (the court certified a class of Latinos in 2011 that were subjected to unlawful searches and seizures based on three incidents that took place in 2007-2008); *Morrow v. Washington*, 277 F.R.D. 172, 178-180 (E.D. Tex. 2011) (certifying a class of ethnic minorities based upon incidents involving named plaintiffs that occurred in 2007-2008).

Review of the District Court's ruling is important to ensure that the litigation process itself cannot be abused so as to deny certification to a class of persons otherwise entitled to use Rule 23 to combat unconstitutional conduct.

c. *Class certification should not depend on plaintiffs meeting rigid proportionality tests.*

The District Court misinterpreted *Wal-Mart* as imposing upon plaintiffs some sort of numerical quota which must be met in order to show sufficient evidence of harm for class certification.

There is no indication that the Supreme Court in *Wal-Mart* created a new "standard" requiring plaintiffs to meet rigid, evidentiary proportionality tests to receive class certification. To the contrary, the Supreme Court in *Wal-Mart* dealt with certifying a *nationwide* class based on affidavits related to "some 235 out of Wal-Mart's 3,400 stores" nationwide, where "[m]ore than half of these reports are concentrated in only six States (Alabama, California, Florida, Missouri, Texas, and Wisconsin); half of all States have only one or two anecdotes; and 14 States have no anecdotes about Wal-Mart's operations at all." *Wal-Mart*, 131 S. Ct. at 2556.

The facts in *Wal-Mart* vary dramatically from the facts in this case. This is not a Title VII case, and the plaintiffs in this case are not attempting to use anecdotal evidence of discriminatory treatment by individuals in a few locations as evidence that a nation-wide policy of discrimination is implemented by the discretionary decisions of thousands of individuals at thousands of locations all across the country. Rather, plaintiffs in this case allege that ICE had a specific, overarching policy of engaging in a widespread pattern and practice of Fourth

Amendment violations, including unlawful entries, searches, and seizures during home raids and violated the equal protection rights of Latinos in New York. To that end, the plaintiffs provided numerous affidavits and statistical evidence within the jurisdiction, prompting even the District Court to acknowledge, albeit dismissively, that "the proof is closer than that at issue in Wal-Mart." *Aguilar*, 2012 U.S. Dist. LEXIS 53367 at *21. Moreover, in the present case (unlike *Wal-Mart*), *other* evidence supports plaintiffs' allegations of unconstitutional policies, patterns and practices, such as operation plans requiring a show of authority to gain entry in the absence of warrants, memoranda permitting unlawful ruses, and arrest quotas that are or were official ICE policies and encourage unconstitutional conduct even if they do not directly authorize it.

Should the District Court's analysis stand, plaintiffs with legitimate civil rights claims will be unable to seek relief unless meeting a specific, numerical evidentiary quota, even where, as here, they have shown the existence of improper conduct: "Based on the record before this Court, it appears that in certain instances, ICE agents and those working with them may have acted inappropriately during the 2007 home raids about which plaintiffs complain." *Id.* at *22. "Action or inaction is directed to a class within the meaning of [Rule 23(b)(2)] even if it has taken effect or is threatened only as to *one or a few members* of the class, provided it is based on grounds which have general application to the class." *See*

Fed. R. Civ. P. 23 advisory committee's note (1966) (emphasis added). This principle underlying the need for class action should not be so easily dismissed by our federal courts.

II. Civil Rights Cases Like The Instant Case Are Appropriately Brought Under Rule 23(b)(2).

This case fits squarely within the Rule 23(b)(2) civil rights class action paradigm. As Judge Forrest acknowledges, the Advisory Committee's note to Rule 23(b)(2) indicates that this rule was drafted specifically to address and eradicate systemic, class-wide discrimination. Fed. R. Civ. P. 23 advisory committee's note, *reprinted in* 39 F.R.D 69, 102 (1966); *see Aguilar*, 2012 U.S. Dist. LEXIS 53367 at *16.

Indeed, courts continue to find that Rule 23(b)(2) is particularly suitable for a class of plaintiffs seeking redress for discrimination and/or Fourth Amendment violations. *See Wal-Mart*, 131 S. Ct. at 2558, *citing Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 614 (1997) (recognizing that civil rights cases alleging class-based discrimination are "prime examples" of appropriate (b)(2) cases); *Daniels v. City of N.Y.*, 198 F.R.D. 409, 418 (S.D.N.Y. 2001) ("(b)(2) certification is appropriate and is especially appropriate where a plaintiff seeks injunctive relief against discriminatory practices by a defendant") (internal quotation marks and citation omitted); *D.S. v. New York City Dept. of Ed.,* 255 F.R.D. 59, 66 (E.D.N.Y.

2008) ("There has been no erosion of the class action as an appropriate means of vindicating constitutional rights. The law continues to recognize the Section 23(b)(2) class action as effective in such matters."); *Marisol A. v. Giuliani*, 126 F.3d 372, 378 (2nd Cir. 1997) (finding "civil rights cases seeking broad declaratory or injunctive relief for a large and amorphous class . . . fall squarely into the category of 23(b)(2) actions") (internal quotation marks and citation omitted); *In re Nassau County*, 461 F.3d 219 (2nd Cir. 2006) (directing the lower court to certify the class as to liability for the alleged Fourth Amendment violations); *Casale v. Kelly*, 257 F.R.D. 396 (S.D.N.Y. 2009) (granting (b)(2) class certification for plaintiffs alleging false arrest and malicious prosecution) . S*ee also* Fed. R. Civ. P. 23(b)(2), Advisory Committee Notes to 1966 Amendment (civil-rights actions are "illustrative" of those well-suited for (b)(2) certification). Granting class certification is central to the fair and efficient adjudication of this case in a single proceeding.

CONCLUSION

For the reasons set forth above, the United States Court of Appeals for the Second Circuit should grant Plaintiffs' petition to appeal the District Court's opinion to preserve class actions and injunctive relief as an indispensable tool for combating systemic civil rights violations.

Dated: May 7, 2012

Respectfully submitted,

/s/ *Avani P. Bhatt*

Avani P. Bhatt
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
601 Lexington Avenue, Suite 3400
New York, New York 10022-4611
(212) 980-7400 Telephone
(212) 980-7499 Facsimile

Attorneys for Amici Curiae

CERTIFICATE OF COMPLIANCE WITH FRAP 32(a)

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 2,269 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in Times New Roman, 14 point font.

/s/ *Avani P. Bhatt*

Avani P. Bhatt
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
601 Lexington Avenue, Suite 3400
New York, New York 10022-4611
(212) 980-7400 Telephone
(212) 980-7499 Facsimile

Attorneys for Amici Curiae

CERTIFICATE OF SERVICE

I, Avani P. Bhatt, hereby certify that on May 7, 2012, I served true and correct copies of **Brief Of *Amici Curiae* Of Southern Poverty Law Center, *Et Al.*, In Support Of Petitioners** on the following parties via e-mail:

Elizabeth Wolstein
Schlam Stone &Dolan LLP
26 Broadway
New York, NY 10004
(212) 344−5400
Email: ewolstein@schlamstone.com

Lara K. Eshkenazi
U.S. Attorney's Office, SDNY
86 Chambers Street
New York, NY 10007
(212) 637−2758
Email: Lara.Eshkenazi@usdoj.gov

David Vincent Bober
U.S. Attorney's Office, SDNY
86 Chambers Street
New York, NY 10007
(212) 637−2718
Email: david.bober@usdoj.gov

Kristin Lynn Vassallo
U.S. Attorney's Office, SDNY
86 Chambers Street
New York, NY 10007
(212) 637−2822
Email: kristin.vassallo@usdoj.gov

Shane Patrick Cargo
U.S. Attorney Office SDNY
86 Chambers Street
New York, NY 10007
(212) 637−2711
Email: shane.cargo@usdoj.gov

Dated: May 7, 2012

/s/ *Avani P. Bhatt*
Avani P. Bhatt
ROBINS, KAPLAN, MILLER & CIRESI L.L.P.
601 Lexington Avenue, Suite 3400
New York, New York 10022-4611
(212) 980-7400 Telephone
(212) 980-7499 Facsimile

Attorneys for Amici Curiae

APPENDIX A

AMICI STATEMENTS OF INTEREST

A non-profit organization founded in 1971, the **Southern Poverty Law Center** ("SPLC") works to make the nation's Constitutional ideals a reality for everyone. The SPLC's legal department fights to protect society's most vulnerable members from all forms of discrimination. The SPLC's Immigrant Justice Project addresses the unique legal needs of migrant workers and immigrants, regardless of their status, in the American South and throughout the country. This immigrant advocacy reaches into the jurisdiction of the U.S. Court of Appeals for the Second Circuit, as with SPLC's 2009 report *Climate of Fear: Latino Immigrants in Suffolk County, NY*. This report highlighted law enforcement practices in Suffolk County that contributed to a virulent anti-immigrant climate there. The communities SPLC serves are potentially affected by the outcome in this appeal of the denial of class certification in *Aguilar, et al. v. ICE, et al*, and in particular this case could impact the options available to individuals who contact SPLC with complaints that Immigration and Customs Enforcement ("ICE") officers have violated the individuals' constitutional rights. In one prospective case, SPLC is actively working with a community in northern Alabama that experienced a mass ICE raid operation in December 2011 to support the community's involvement in an on-going federal investigation into potential civil rights violations by ICE officers. In these potential cases and others, the outcome of class certification in *Aguilar* will affect the legal strategies available to our clients in the American South and elsewhere in the country.

The **Center for Social Justice at Seton Hall University School of Law** has a long history of defending immigrants' constitutional and human rights. The Center's Immigrants' Rights/International Human Rights Clinic regularly represents detained and non-detained immigrants in removal proceedings and affirmative petitions, and produces human rights reports on widespread practices that violate immigrants' rights. The Center's Civil Rights and Constitutional Litigation Clinic, which takes on large-scale and impact litigation, represents immigrants throughout New Jersey subject to warrantless pre-dawn home raids by the Immigration and Customs Enforcement bureau. The Civil Rights and Constitutional Litigation Clinic also won a significant precedential decision in the Third Circuit on behalf of an immigrant initially denied withholding of removal due to vague suspicions that he could be a risk to national security. *See Yusupov v. Attorney General*, 650 F.3d 968 (3d Cir. 2011). The Center's Equal Justice Clinic represents immigrants in individual requests for relief as well as in a broad challenge to a state restriction of health benefits to immigrants. Moreover, the Center's International Human Rights/Rule of Law Project has produced training guides and reports related to

immigrants' rights. Underlying these cases and projects is the Center's longstanding commitment to protecting the constitutional and human rights of immigrants and strong interest in the development of clear and cohesive legal principles for protecting those rights through litigation.

The **Immigrant Defense Project** ("IDP") is a non-profit legal resource and training center dedicated to defending the legal, constitutional and human rights of immigrants. A national expert on the intersection of criminal and immigration law, IDP works to transform unjust deportation laws, and policies and educates and advises, immigrants, their criminal defenders and other advocates in order to promote fundamental fairness for immigrants. IDP has submitted amicus curiae briefing accepted by this Court, as well as the United States Supreme Court, in many key immigrant rights cases. *See, e.g.,* Brief of Amicus Curiae in Support of Petitioner, *Martinez v. Mukasey*, 551 F.3d 113 (2d Cir. 2008) (No. 07-3031-ag), 2008 WL 7898518; Brief of Amicus Curiae in Support of Petitioner, *Alsol v. Mukasey*, 548 F.3d 207 (2d Cir. 2008) (No. 08-1112-ag), 2008 WL 6526437; Brief of National Association of Criminal Defense Lawyers, IDP, *et al*., *Padilla v. Kentucky*, 559 U.S. ___, 130 S. Ct. 1473 (No. 08- 651), 2009 WL 1567356.

The **Immigration Justice Clinic** ("IJC") of John Jay Legal Services, Inc. serves indigent people living, working, or detained in the lower Hudson Valley and in New York City. Free advice and representation are offered to eligible immigrants seeking to regularize their legal status through family ties, employment, asylum, or pursuant to specific federal categories. The IJC also represents immigrants facing deportation (now called "removal" in the Immigration Courts and numerous correctional facilities. The IJC has represented individuals arrested and/or terrified by witnessing arrests of family members and friends during the ICE warrantless home invasion raids in Mount Kisco, New York, that are subject matter of this litigation.

The **Long Island Immigrant Alliance**, Amityville, NY ("LIIA") is comprised of approximately 50 not-for-profit and charitable member organizations that promote the well-being of all community residents in New York's Nassau and Suffolk Counties. LIIA works in solidarity with all immigrants who are an integral part of Long Island's communities. Since 2000, LIIA has sought to promote a broad-based integrated approach to community civic engagement, leadership development and fostering programs to counter the climate of increasing anti-immigrant sentiment in the region. LIIA has successfully led a coalition of labor, religious, civic, and community groups to dispel myths about immigrants and to highlight their contributions to our communities, and has provided policy analyses

and pro-active recommendations to the local legislature. The raids on Long Island have had an enduring deleterious impact on the Latino community as a whole. The community has not yet recovered and continues to suffer in silence. But the greatest injury is to our children who will carry through-out their lifespan the traumatic impact of having and witnessing their parents forcibly detained and taken away.

The **National Immigration Project of the National Lawyers Guild** ("NIPNLG") is a non-profit membership organization of immigration attorneys, legal workers, grassroots advocates, and other working to defend immigrants' rights and to secure a fair administration of the immigration and nationality laws. The NIPNLG provides technical assistance and legal training to the bar and bench on the rights of noncitizens and is the author of IMMIGRATION LAW AND DEFENSE and three other treatises published by Thompson-West. NIPNLG has participated as *amicus curiae* in several significant immigration-related cases before the federal courts.

New York Immigration Coalition, New York City, NY ("NYIC") is an umbrella policy and advocacy organization for almost 200 groups in New York State that work with immigrants and refugees. As the coordinating body for organizations that serve one of the largest and most diverse newcomer populations in the United States, the NYIC has become a leading advocate for immigrant communities on local, state, and national levels. Our membership includes grassroots community organizations, not-for-profit health and human services organizations, religious and academic institutions, labor unions, and legal, social, and economic justice organizations. The NYIC and its member organizations have a stake in ensuring that immigration enforcement practices, which include warrantless home raids, do not violate individuals basic civil and human rights.

Northern Manhattan Coalition for Immigrant Rights, New York City, NY ("NMCIR") is a 501(c)3 non-profit founded in 1982 to educate, organize, and protect the rights of immigrants. Recognized by the Board of Immigration Appeals, NMCIR is committed to providing legal access to immigration services and participating in policy making and community organizing efforts. NMCIR has a unique community presence: our staff interacts with almost 30 walk in clients a day and we offer civics and English classes to approximately 125 students a week. Our client profile is largely reflective of the immigrant community in the Bronx and Northern Manhattan: almost all are Spanish-speaking immigrants and the majority has less than a secondary school education. In terms of employment, 48% are unemployed and of those who are employed 67% make less than $15,000 a year. NMCIR joins this brief as amici because we are interested in protecting

immigrants' due process rights from unreasonable searches or seizure by law enforcement. Unreasonable searches and seizures have the potential to be devastating to our community, whose ethnic, social, and economic demographics make them vulnerable and unable to fully defend their interests with law enforcement or in court.

The **Westchester Hispanic Coalition** ("WHC") is an empowerment-oriented organization committed to a culturally competent client-centered approach and advancing the rights and leadership of the Latino community. WHC carries out its mission by advocating for effective and inclusive policies and creating opportunities for collaborative efforts for a better County. Hispanics and other immigrants account for much of Westchester County's continuing population growth. For the second decade in a row, Hispanics constitute the largest minority group in the Westchester, now comprising 21.8% of the total population, an increase of 46% from 2000. WHC provides a variety of services including counseling services, translation and benefits advocacy, immigration and eviction prevention services, wage theft and workers' rights advocacy, and most recently ALAS which assists victims and survivors of sexual assaults.