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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

COMITE DE JORNALEROS DE)	Case No. CV 04-9396-CBM (PJWx)
REDONDO BEACH, et al.,)	
)	ORDER GRANTING IN PART AND
Plaintiffs,)	DENYING IN PART PLAINTIFFS'
)	MOTION FOR A PROTECTIVE ORDER
v.)	
)	
CITY OF REDONDO BEACH,)	
)	
Defendant.)	

In 1987, the City of Redondo Beach enacted Municipal Code § 3-7.1601, later amended in 1989, which prohibited pedestrians from soliciting drivers to hire them and drivers from hiring pedestrians on the streets of Redondo Beach. In October 2004, the City began enforcing the statute in earnest to address mounting complaints about day laborers who were assembling at various intersections in the City and soliciting drivers for work. In response to the City's crackdown, Plaintiffs Comitè de Jornaleros de Redondo Beach ("Comite") and the National Day Laborer Organization Network ("NDLON") filed this federal civil rights action against the City. In its Complaint, Plaintiffs contend that the City's enforcement of § 3-7.1601 violates the day laborers' rights of freedom of speech.

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1 In December 2004, the Court entered a preliminary injunction
2 prohibiting Defendant from enforcing § 3-7.1601. Defendant appealed
3 that decision, but it was affirmed by the Ninth Circuit in May 2005.

4 The parties are in the midst of discovery. Defendant has
5 propounded discovery on Plaintiffs, seeking, among other things, the
6 legal status of Plaintiffs' members. Defendant contends that this
7 information is relevant to the issue of whether Plaintiffs have
8 standing to bring this lawsuit. Defendant argues that if Plaintiffs'
9 members are undocumented aliens without the right to work in the
10 United States, they do not have the right to challenge the ordinance
11 on behalf of their members on the ground that it interferes with their
12 members' right to work because their members do not have a legal right
13 to work.

14 Plaintiffs contend that the discovery is intended to intimidate
15 and harass Plaintiffs' members and that there is no legitimate reason
16 to request the information because undocumented aliens are not
17 prohibited from working as day laborers. Plaintiffs argue that
18 requiring its members to divulge their immigration status will chill
19 them from enforcing their rights, both now and in the future, and will
20 also chill other immigrants, both legal and illegal, from pursuing
21 their rights in the future.

22 Plaintiffs have moved for a protective order, seeking to relieve
23 them from responding to the discovery and precluding Defendant from
24 propounding similar discovery in the future. Defendant opposes
25 Plaintiffs' motion.

26 In analyzing the parties' claims here, the Court notes that the
27 parties have implicitly raised threshold issues that the magistrate
28 judge is not tasked with answering in this case. First, Defendant

1 claims Plaintiffs must establish that their members are lawfully in
2 the United States and, therefore, have a legal right to work here in
3 order for Plaintiffs to have standing to proceed. Plaintiffs, on the
4 other hand, ask the Court to find, in essence, that undocumented
5 aliens can legally work in the United States and, therefore, they can
6 pursue this lawsuit despite their members' immigration status because
7 Defendant interfered with their right to work.¹ Consequently,
8 Plaintiffs argue that, if immigration status is not relevant to their
9 cause of action, Defendant is not entitled to discover it.

10 In the context of this discovery dispute, the magistrate judge is
11 not empowered to address the merits of either of these issues. They
12 are strictly the province of the district judge. With an eye towards
13 broader, rather than more limited discovery, the magistrate judge
14 reviews discovery requests for relevance and leaves to the district
15 judge a subsequent, more finely tuned decision regarding admissibility
16 for motion or trial. See Fed. R. Civ. Pro. 26(b)(1) ("For good cause,
17 the Court may order discovery of any matter relevant to the subject
18 matter involved in the action. Relevant information need not be
19 admissible at the trial if the discovery appears reasonably calculated
20 to lead to the discovery of admissible evidence."). With this
21 understanding, the Court addresses Defendant's discovery requests.

22 Defendant seeks to find out from Plaintiffs if any of its members
23 are in this country legally. Defendant hopes to argue that, assuming
24 many or most are not, Plaintiffs have no standing to bring a lawsuit
25 challenging Defendant's acts which interfered with the members'

27
28 ¹ The Court notes that Plaintiffs are not conceding that any of
their members are undocumented aliens.

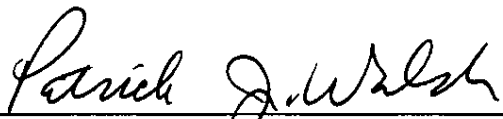
1 ability to work because they were not allowed to work in the first
2 place. This appears to be a legitimate area of inquiry in discovery
3 in that it relates to Defendant's proffered defense. See Fed. R. Civ.
4 Proc. 26(b)(1) ("Parties may obtain discovery regarding any matter,
5 not privileged, that is relevant to the claim or defense of any party
6"). The Court recognizes, of course, that requiring individual
7 members of these organizations to reveal their immigration status
8 would cause many of them to withdraw from Plaintiffs' organizations
9 and, perhaps, this suit. It likely would chill future actions by
10 these individuals and similarly situated ones. For that reason, a
11 compromise is necessary to protect the individual members from having
12 to publicize their immigration status. One solution that would allow
13 Defendant the information it needs while preserving the members'
14 secrecy would be for Plaintiffs to determine how many members are in
15 their organizations and how many of them are undocumented. Plaintiffs
16 could then provide this information to Defendant, who could use it in
17 its motion to dismiss or for summary judgment based on lack of
18 standing. If the district judge were to conclude that Defendant was
19 right, either Plaintiffs as a whole or those members of Plaintiffs'
20 organization who did not have standing could be eliminated from the
21 lawsuit. If, as Defendant alleges, none of Plaintiffs' members are
22 here legally, the district judge could address that issue as well and
23 determine whether Plaintiffs still have standing to sue.

24 The Court has considered Plaintiffs' argument that Defendant's
25 standing argument has been resolved against them already in that the
26 district judge has implicitly, if not explicitly, found standing and
27 that the Ninth Circuit has considered and rejected Defendant's
28 standing argument. The Court disagrees. The district judge's

1 preliminary injunction is just that, preliminary. Defendant still has
2 an opportunity to challenge the Court's findings in subsequent
3 proceedings. Likewise, the Ninth Circuit's two-paragraph decision
4 denying Defendant's appeal clearly does not include a standing
5 analysis. See *Comite De Jornaleros de Redondo Beach v. City of*
6 *Redondo Beach*, 2005 WL 1111863.

7 Plaintiffs have until **August 22, 2005**, to provide the information
8 to Defendant. This order will be automatically stayed until the
9 district judge rules on any appeal should Plaintiffs elect to timely
10 appeal it.²

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12 DATED: August 5, 2005.

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15 PATRICK J. WALSH
16 UNITED STATES MAGISTRATE JUDGE
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27 ² Plaintiffs' motion to strike Defendant's supplemental brief is
28 DENIED. The supplemental brief was primarily a duplication of the
arguments in the joint stipulation. Defendant is admonished to follow
the Local Rules in the future.