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9 the Arizona Secretary of State

10 **IN THE UNITED STATES DISTRICT COURT**
11 **DISTRICT OF ARIZONA**

12 MARIA M. GONZALEZ, et al.,

13 Plaintiffs,

14 v.

15 STATE OF ARIZONA, et al.

16 Defendants.

No. CV06-01268 PHX ROS
No. CV06-1362 PCT ROS (Cons)
No. CV06-1575 PCT ROS (Cons)

**FOURTH DECLARATION OF
COUNSEL IN SUPPORT OF
MOTIONS TO DISMISS PURSUANT
TO FED. R. CIV. P. 12(B)(1) (LACK
OF STANDING) BY DEFENDANTS
STATE OF ARIZONA AND THE
ARIZONA SECRETARY OF STATE**

(Assigned to the Honorable
Roslyn O. Silver)

1 Barbara A. Bailey declares:

2 1. I am one of the attorneys of record in these consolidated cases and
3 represent the State of Arizona and the Arizona Secretary of State, both of whom are
4 defendants in one or more of these cases. I make this Declaration in support of the
5 Motions to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) (Lack of Standing) by
6 Defendants State of Arizona and the Arizona Secretary of State, Dkt Nos. 433 and 434.

7 2. Attached at Tab 22 is a true and correct copy of the Affidavit of Krysty
8 Marin, the Yuma County Voter Registration Coordinator of the Yuma County
9 Recorder's Office, which affidavit is dated March 6, 2008.

10 3. Attached at Tab 23 is a true and correct copy of excerpts of the State
11 Elections Instructions and Procedures Manual (October 2007), which is adopted
12 pursuant to Arizona law by the Arizona Secretary of State and which is publicly
13 available on the Secretary's website at [http://www.azsos.gov/election/Electronic
14 Voting System/2007/Manual.pdf](http://www.azsos.gov/election/Electronic_Voting_System/2007/Manual.pdf).

15 4. Attached at Tab 24 is a true and correct copy of excerpts of the deposition
16 of Georgia Morrison Flores, which was taken in this matter on January 17, 2008.

17 I declare under penalty of perjury that the foregoing assertions of fact are true and
18 correct.

19 Executed on March 6, 2008, at Phoenix, Arizona.

20 TERRY GODDARD
21 Arizona Attorney General

22 s/Barbara A. Bailey
23 Mary O'Grady
24 Solicitor General
25 Carrie J. Brennan
26 Barbara A. Bailey
27 Assistant Attorneys General
28 Attorneys for the State of Arizona and the
Arizona Secretary of State

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 6th day of March, 2008, I electronically transmitted
3 the attached document to the Clerk's Office using the ECF System for filing, and
4 transmittal of a Notice of Electronic Filing to the following ECF registrants:
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Jean E. Wilcox
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COPY sent via U.S. mail this
6th day of March, 2008 to:

The Honorable Roslyn O. Silver
United States District Court
Sandra Day O'Connor U.S. Courthouse, Suite 624
401 West Washington Street, SPC 59
Phoenix, AZ 85003-2158

/s Elizabeth Stark

157761

TAB 22

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AFFIDAVIT

STATE OF ARIZONA)
) ss.
County of Yuma)

I, Krysty Marin, being first duly sworn upon my oath depose and state the following:

1. I am the Yuma County Voter Registration Coordinator and am employed by the Yuma County Recorder's Office
2. I am responsible for voter registration in Yuma County. Specifically my duties include overseeing the acceptance and processing of Voter Registration cards, implementing the statewide computer system, printing the voter rosters for the polling places on Election Day, and overseeing other areas of voter registration.
3. I make this declaration based upon my knowledge and a review of the County's relevant records.
4. Georgia Morrison-Flores registered to vote in Yuma County on September 3, 2004. However, on her voter registration card, she indicated that her name was Georgia Flores-Morrison.
5. When Ms. Morrison-Flores registered she did not indicate a political party preference.
6. The Yuma County Recorder's Office has not received any information from Ms. Morrison-Flores since September 3, 2004 indicating a desire to update

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her voter registration.

- 7. There is no charge to update a voter registration in Yuma County.
- 8. A voter may update his/her voter registration by filling out a new voter registration card and submitting it to the Yuma County Recorder's Office. This can be done in person, via the Internet, or through the mail.
- 9. Any registered voter may obtain a replacement Voter Registration Card by contacting the Yuma County Recorder's Office. There is no charge for a replacement Voter Registration Card.

Further, affiant sayeth naught.

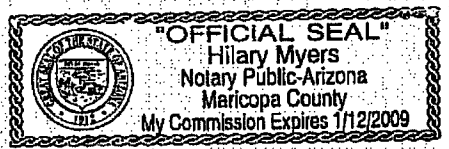
Krysty Marin
Yuma County Voter Registration
Coordinator

SUBSCRIBED AND SWORN to before me this 16th day of March, 2008.

NOTARY PUBLIC

My Commission Expires:

N:\DOCS\MARICOPA COUNTY\Gonzalez v. Brewer (Prop 200)\Documents\103-05-08 Affidavit of K. Marin.doc



TAB 23

- mail one sample ballot to each household containing a registered voter, at least **11 days before** the election

For each sample ballot actually mailed, present a certified claim for reimbursement to the Secretary of State for the actual cost of:

- printing,
- labeling, and
- postage.

[A.R.S. § 16-510]

PRESIDENTIAL PREFERENCE ELECTION

Ballots for each political party for the presidential preference election shall be printed:

- on different colored paper, if more than one party is participating,
- or white paper with a different colored stripe,
- only one party may be represented on each ballot,
- at the top of each ballot shall be printed "Official Ballot of the _____ Party, Presidential Preference Election (date), County of _____, State of Arizona",
- the order of the names of certified candidates on the ballot shall be determined by lots drawn at a public meeting called by the Secretary of State,
- the candidates' names will appear in the same order on all ballots for each party without rotation,
- certified candidates shall be listed under the title " _____ Party Candidates for President of the United States",
- immediately below shall be printed "vote for not more than one",
- shall be coded for tabulation by congressional district, and
- shall not contain a ballot stub.

[A.R.S. § 16-245]

Arrangement of Candidates' Names on the Ballot

Ballot position in the presidential preference election is drawn by lot.

[A.R.S. § 16-245]

Sample Ballot

No elected or appointed public officer's name shall appear on the sample ballot.

No other election may appear on the presidential preference ballot.

[A.R.S. § 16-241(A)]

The sample ballot shall include the list of acceptable forms of identification for voters.

Each sample ballot shall clearly indicate in a conspicuous location that it is not an official ballot.

Proofs

The officer in charge of elections shall provide a sample ballot proof to the chair of each qualified candidate's state committee no later than **five days after** receipt of the certification of candidates from the Secretary of State.

Mailing

The mailing face of each sample ballot shall be imprinted with:

- the great seal of the state of Arizona and
- the words "Official Voting Materials - Presidential Preference Election."

[A.R.S. § 16-245(E)]

New Party

A political party that is eligible for recognition in the presidential preference election shall be represented on the subsequent primary and general election ballots in the year of the presidential preference election. [A.R.S. § 16-802]

Early Voting for Presidential Preference Election

Early voting begins 26 days before the presidential preference election.

[A.R.S. § 16-246(C)]

Designation of Polling Places for the Presidential Preference Election

The Secretary of State is permitted to allow a county to modify the procedures used to administer a presidential preference election if those procedures are more efficient and designed to reduce the cost of the election. A County Recorder or officer in charge of elections may submit a written plan to the Secretary of State for administering their duties in the conduct of the presidential election pursuant to this provision.

The number of polling places for the presidential preference election shall be reasonable and adequate, and shall be determined according to the number of **active registered voters as of January 1** of the year of the presidential preference election. Using this number, the formula set out in A.R.S. § 16-248 shall be used to determine the maximum number of polling places allowed for a particular county.

The Secretary of State has the authority to release a county from the limit on polling places, if compliance with state and federal regulations would be jeopardized.

Consolidation of polling places does not apply to land on Indian reservations.

In precincts containing fewer than 200 active registered voters, the officer in charge of elections may conduct the presidential preference election by mail.

[A.R.S. § 16-248]

No Open Primary

The "open primary" provisions do not apply to the presidential preference election. Ballots for expressing a preference for a presidential candidate shall be provided only to members of political parties participating in the presidential preference election.

[Ariz. Atty. Gen. Op. No. 199-025]

Records Retention

Ballots and voting materials must be retained **24 months** for federal elections based.

[A.R.S. § 16-624(A)]

Ballots and voting materials must be retained six months for all non-federal elections.

[A.R.S. § 16-624(A)]

OFFICIAL BALLOT SPECIFICATIONS

Primary Election

Ballots for a primary election:

- shall be printed on colored paper and/or card stock, or
- on white paper with a color indicator such as a stripe,
- shall identify each recognized political party with a different color,
- shall contain the party name, precinct number and/or precinct name,
- shall not contain a ballot stub,

- If practical and available, a law enforcement officer shall aid in the transfer of the ballot box.
- If two members of the election board are not available to transfer the ballot box, one member of the election board and one law enforcement officer may accompany the box to the new polling place.
- Two additional board members shall verify whether the ballot box arrived at the new polling place and that it was not opened or damaged.
- All election board members who accompanied the locked ballot box to the new location and the one or two board members who verified the box's arrival shall file a report with the officer in charge of elections that describes the actions taken by the board members. This report shall be filed on the day of the emergency.
- On the day of the emergency in which the ballot box was moved, all election board members who aided in the transfer and verification of the locked ballot box shall indicate on official documents containing their oath whether they witnessed the transfer of the box and whether the box remained locked.

[A.R.S. § 16-564]

SPOILED BALLOTS

If an elector spoils a ballot, the elector shall return the ballot and receive another ballot:

- the word "SPOILED" shall be written on the ballot in ink by the voter or by the inspector and one of the judges
- the inspector or judge shall mark the spoiled ballot in a manner to assure that it cannot be counted by any electronic voting system
- the spoiled ballot shall be placed in the official returns envelope

Up to two additional ballots may be issued.

PROCEDURE FOR PROOF OF IDENTIFICATION AND PROVISIONAL BALLOT PROCESSING AT THE POLLS

Every qualified elector is required to show proof of identity at the polling place before receiving a ballot. The elector shall announce his/her name and place of residence to the election official and present one form of identification that bears the name, address, and photograph of the elector or two different forms of identification that bear the name and address of the elector.

[A.R.S. § 16-579(A)]

An elector who does not provide one form of identification that bears the name, address, and photograph of the elector or two different forms of identification that bear

the name and address of the elector shall not be issued a regular ballot, but shall receive a conditional provisional ballot. If the elector identifies himself or herself as a Native American, the elector shall be processed under the section of this procedure titled "Identification Requirements for Native American Electors," all others shall be processed under the section of this procedure titled "Conditional Provisional Ballot for No Identification."

Acceptable proof of identification includes but is not limited to the sources listed below. Other forms of identification not on this list must be deemed acceptable by the county election official in charge of elections and must establish the identity of the elector in accordance with the requirements of A.R.S. § 16-579(A).

Acceptable Forms of Identification with Photograph, Name, and Address of the Elector

- Valid Arizona driver license
- Valid Arizona nonoperating identification license
- Tribal enrollment card or other form of tribal identification
- Valid United States federal, state, or local government issued identification

An identification is "valid" unless it can be determined on its face that it has expired.

Acceptable Forms of Identification Without a Photograph that Bear the Name and Address of the Elector (Two Required)

- Utility bill of the elector that is dated within 90 days of the date of the election. A utility bill may be for electric, gas, water, solid waste, sewer, telephone, cellular phone, or cable television
- Bank or credit union statement that is dated within 90 days of the date of the election
- Valid Arizona Vehicle Registration
- Indian census card
- Property tax statement of the elector's residence
- Tribal enrollment card or other form of tribal identification
- Vehicle insurance card
- Recorder's Certificate
- Valid United States federal, state, or local government issued identification, including a voter registration card issued by the County Recorder

An identification is "valid" unless it can be determined on its face that it has expired.

TAB 24

ms

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

FEB 6 2008
SOLICITOR GENERAL'S OFFICE

MARIA M. GONZALEZ, et al.,)	
)	CV06-1268-PHX-ROS (LEAD)
)	
Plaintiffs,)	
)	CV06-1352-PCT-ROS
VS.)	
)	
STATE OF ARIZONA, et al.,)	CV06-1575-PHX-ROS
)	
)	
Defendants,)	
_____)	

YUMA, ARIZONA

JANUARY 17, 2008

1:00 P.M.

DEPOSITION OF GEORGIA MORRISON FLORES

PREPARED FOR:

**MS. BARBARA A. BAILEY, ESQ.
OFFICE OF THE ATTORNEY GENERAL
1275 W WASHINGTON
PHOENIX, ARIZONA 85007**

BORT COURT REPORTING SERVICE

REGISTERED PROFESSIONAL REPORTERS
220 SOUTH SECOND AVENUE
YUMA, ARIZONA 85364
PHONE: (928) 782-7591

**BY: PAMELA E. BANAS'-COOK, RPR
AZ CR NO. 50259**

1 A. Yes.

2 Q. And what is your husband's name?

3 A. Casimiro Flores. C-a-s-i-m-i-r-o Flores.

4 Q. And did you obtain a marriage license from
5 here in Yuma County?

6 A. Yes.

7 Q. And what did you do to get that marriage
8 license?

9 A. What did I do?

10 Q. Yes, what did you have to do to get the
11 marriage license?

12 A. Go up to the courthouse, pay for it, and
13 take it to our minister, and then get married.

14 Q. Okay.

15 A. Yes.

16 Q. Okay. Do you remember what the fee was to
17 get that marriage license?

18 A. I think it was fifty dollars, but I don't
19 remember exactly. But I think it was fifty dollars.

20 Q. Okay. And did you have to provide any
21 identification in order to get the marriage license?

22 A. I don't remember. I don't remember.

23 Q. Okay. What is the name that you go by
24 today?

25 A. Georgia A. Morrison-Flores.

1 that she's gone I gotta go and find a job to take
2 care of all that.

3 Q. Okay. Do you presently have a bank
4 account?

5 A. Yes.

6 Q. Okay. And who is that with?

7 A. SunBank.

8 Q. SunBank?

9 A. Um-hum.

10 Q. And is your name on the account?

11 A. Yes, ma'am.

12 Q. Okay. And do you receive any statements
13 from that bank?

14 A. Yes.

15 Q. Okay. And what address do you receive
16 those statements at?

17 A. 510 South 17th Avenue.

18 Q. Okay. Do you receive monthly statements
19 from them?

20 A. I got one statement only from them since
21 I've opened it.

22 Q. How long have you had that account?

23 A. Um -- since December.

24 Q. December of 2007?

25 A. 2007, um-hum.

1 Q. Okay. Do you expect that you will receive
2 monthly statements from that bank?

3 MR. URIAS: Objection, form.

4 THE WITNESS: Yes.

5 Q. (BY MS. BAILEY) Do you own a computer?

6 A. Yes.

7 Q. And do you have internet service on that
8 computer?

9 A. Not at the present.

10 Q. No? Okay. Do you expect to obtain
11 internet service at any point in the near future?

12 MR. URIAS: Objection, form.

13 THE WITNESS: Sometime.

14 Q. (BY MS. BAILEY) Sometime?

15 A. Yes.

16 Q. Okay. Do you have a car or a vehicle,
17 motor vehicle?

18 A. Yes.

19 Q. Is your car registered with Arizona Motor
20 Vehicle Division?

21 A. Yes.

22 Q. And do you have insurance on your car?

23 A. No.

24 Q. No insurance? Okay.

25 (Mr. Bernal enters.)

1 A. Actually, when you're a permanent employee,
2 they put indefinite on it.

3 Q. Okay.

4 A. So, I don't know what they do nowadays, but
5 back then that's what they used to do.

6 Q. Okay. Does that ID have your address on
7 it?

8 A. I'm not sure. It has my picture. And my
9 height and weight. I'm not sure.

10 Q. Okay. And you mentioned that you could not
11 find your voter registration card to bring today; is
12 that correct?

13 A. Yes, ma'am.

14 Q. Okay. But you do recall receiving a voter
15 registration card?

16 A. Yes, ma'am.

17 Q. All right. Do you intend to -- to vote
18 in -- in the general election this year?

19 A. Yes.

20 Q. Okay. And will you -- do you intend to
21 vote in person at that election?

22 A. Yes.

23 Q. Okay. What do you intend to use for
24 identification to vote in person at the general
25 election in 2008?

1 A. The driver's license.

2 Q. Okay. That's the driver's license you
3 brought here with you today?

4 A. Yes.

5 Q. Okay. Do you intend to vote in the primary
6 in 2008?

7 A. Yes.

8 Q. Okay. And are you going to use your
9 driver's license to vote then?

10 A. Yes.

11 Q. All right. Are you aware that voters in
12 Arizona can vote early?

13 A. Yes.

14 Q. Okay. Have you ever attempted to vote
15 early at any election?

16 A. I've done it for my mother.

17 Q. For your mother?

18 A. Yes.

19 Q. What did you do to help your mother vote
20 early?

21 A. They sent her an early voters in the mail.
22 And we filled it out and sent it back in.

23 Q. Okay. Have you ever considered doing that
24 for yourself?

25 A. No, ma'am.

1 November of 2006 did you know where that card was?

2 A. Hm. I had it somewhere at the house.

3 Q. Okay.

4 A. Yeah. The card that I'm talking about,
5 when you fill out -- when we filled out the form at
6 Del Sol Market with this lady, it was like a
7 duplicate, like you fill out the front and then
8 underneath there was a duplicate. She gave us the
9 duplicate copy of this little blue and white form
10 that we filled out. So I had that.

11 Q. Did you get a card in the mail from the
12 Yuma County Recorder's Office at some point in time
13 after that?

14 A. Yeah, I got it in the mail.

15 Q. What did that card look like?

16 A. It was a little kind of -- (Indicating.) --
17 a little cardboard like paper.

18 Q. Okay.

19 A. Cardboard like.

20 Q. Do you know -- do you still have that card?

21 A. Yes.

22 Q. Do you know where it is?

23 A. Somewhere at the house.

24 Q. Okay. Could you find it, if you needed to?

25 A. I'm looking for it today for the guys. And

1 Q. Okay. And do you have any idea when you
2 plan on telling them that they need to send your mail
3 somewhere else?

4 A. After everything has been taken care of
5 with mom, then, yeah --

6 Q. Okay.

7 A. -- down the line. By the grace of God,
8 yeah.

9 Q. Have you -- have you received any mail from
10 the Yuma County Recorder's Office or Elections
11 Department since you closed that PO box?

12 A. No.

13 Q. Okay.

14 A. Because I just closed it in November.

15 Q. Okay. Now, a little earlier Ms. Bailey
16 asked you if you plan on voting in 2008. And you
17 said you hope so, as long as everything goes all
18 right, but that you didn't know -- you wouldn't know
19 until you showed up that day?

20 A. Until I show up.

21 Q. Is that what you testified?

22 A. Yes.

23 Q. Have you made any attempt to contact the
24 Yuma County Elections Department to see if the ID
25 that you have now is adequate for you to vote in

1 2008?

2 A. No.

3 Q. No? Have you contacted the Recorder's
4 Office to ask that question?

5 A. No.

6 Q. Have you asked anybody whether the
7 identification that you have now will allow you to
8 vote in 2008?

9 A. No.

10 Q. Do you plan on contacting anybody before
11 Election Day to find out?

12 A. Well, I'm hoping that it is okay.

13 Q. Um-hum.

14 A. Because my old one was Vasquez and their
15 record was Flores. So now that my new one is Flores,
16 their records should reflect Flores.

17 Q. Do you have any plans on calling anybody
18 before Election Day just to check?

19 A. No.

20 Q. Okay.

21 A. Not really.

22 Q. I was just curious.

23 A. Oh.

24 MS. RAPP: I don't think I have any
25 other questions. Thank you very much for your time

1 Q. Okay. And your -- okay. So that was part
2 of the reason why? Is there anything else, any other
3 reason that -- that you know would explain the time
4 that it took for you to change that?

5 A. Just that I didn't take the time to go and
6 do it.

7 Q. It would have taken some time?

8 A. (Nods head up and down.)

9 Q. Okay. You have to answer --

10 A. And it takes time before, because when you
11 go in and change your -- have your name changed, it
12 doesn't happen that very day you go in to do it.
13 It's going to take maybe anywhere from six, eight
14 weeks, to do it.

15 Q. Okay. Thank you for clarifying.

16 MR. URIAS: I have nothing further.

17 THE WITNESS: Thank you.

18 MS. BAILEY: Okay. I don't have
19 anything further. Thank you.

20 MS. RAPP: Thank you for coming today.

21 (The taking of the deposition was
22 concluded at 3:00 p.m.)

23

24

GEORGIA MORRISON FLORES

25

1 CERTIFICATE OF REPORTER

2 State of Arizona)
3 County of Maricopa) ss.

4 Be it known that the foregoing
5 deposition was taken before me, Pamela E.
6 Banas'-Cook, RPR, CCR, AZ CR No. 50259, pursuant to
7 Notice; that the witness before testifying was duly
8 sworn by me to testify to the whole truth; that the
9 said deposition was reported by me in machine
10 shorthand and thereafter produced under my direction;
11 that the foregoing 86 pages constitute a full, true
12 and accurate transcript of all proceedings had upon
13 the taking of said deposition, all done to the best
14 of my skill and ability.

15 I further certify that I am in no way
16 related to any of the parties hereto, nor am I in any
17 wise interested in the outcome hereof.

18 (X) Pursuant to request, notification was
19 provided that the deposition is available for review
20 and signature.

21 () Deposition review and signature was
22 not requested.

23
24
25

Pamela E. Banas'-Cook, RPR, CCR, CR
AZ CR No. 50259