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12 IN THE UNITED STATES DISTRICT COURT

13 FOR THE DISTRICT OF ARIZONA

14 Maria M. Gonzalez, et al.,

15 Plaintiffs,

16 v.

17 State of Arizona, et al.,

18 Defendants.

NO. CV06-1268-PHX-ROS (LEAD)
NO. CV06-1362-PCT-JAT
NO. CV06-1575-PHX-ROS
(Consolidated)

**TWELVE COUNTY
DEFENDANTS' CLOSING
ARGUMENT**

(Assigned to the Honorable
Roslyn O. Silver)

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Defendants Maricopa County Recorder Helen Purcell and Maricopa County Elections Director Karen Osborne; Apache County Recorder LeNora Johnson and Apache County Elections Director Penny L. Pew; Cochise County Recorder Christine Rhodes and Cochise County Elections Director Thomas Schelling; Gila County Recorder Linda Haught Ortega and Gila County Elections Director Dixie Mundy; Graham County Recorder Wendy John and Graham County Elections Director Judy Dickerson; Greenlee County Recorder Berta Manuz and Greenlee County Elections Director Yvonne Pearson; La Paz County Recorder Shelly Baker and La Paz County Elections Director Donna Hale; Mohave County Recorder Joan McCall and Mohave County Elections Director Allen Tempert; Pima County Recorder F. Ann Rodriguez and Pima County Elections Director Brad R. Nelson; Santa Cruz County Recorder Suzie Sainz and Santa Cruz County Elections Director Melinda Meek; Yavapai County Recorder Ana Wayman-Trujillo and Yavapai County Elections Director Lynn A. Constabile; and Yuma County Recorder Susan Hightower Marler and Yuma County Elections Director Patti Madrill (collectively “County Defendants”), by and through undersigned counsel, hereby submits their Closing Argument.

These County Defendants have received and reviewed the July 25th Closing Brief filed by Defendants the State of Arizona and the Secretary of State (“State Defendant”). These County Defendants join in the State’s argument and in addition submit the following. The attached Memorandum of Points and Authorities is incorporated herein by reference.

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RESPECTFULLY SUBMITTED this 25th day of July, 2008.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

By approving the Arizona Taxpayer and Citizen Protection Act in the November 2004 General Election, Arizona’s voters implemented two voting changes in order to ensure that only eligible applicants were registering to vote and voting. This law is a reasonable, even-handed regulation designed to protect the electoral system from the very real dangers of election fraud by simply requiring proof of citizenship for voter registration and a reasonable form of identification of the voter at the polls. Acting on the power granted to them by the Arizona Constitution, Arizona’s voters recognized two problems in their voting system that did not have adequate detection or prevention mechanisms prior to enactment: (1) the complete lack of any verification of a potential registrant’s U.S. citizenship; and (2) the lack of verification of a voter’s identity on Election Day.

It is fundamental, and cannot seriously be argued otherwise, that these are reasonable requirements to the right to vote. Indeed, this is not seriously at issue. What is

1 at issue is the claim that somehow these reasonable requirements to insure the integrity
2 of the voting system have placed some unreasonable or disproportionate restriction on
3 voters of a certain race, origin or background, and in particular as it relates to any claim
4 made against the Counties, upon persons specifically of Hispanic or Latino backgrounds.
5 The fact is, however, that Plaintiffs have failed miserably to establish any such violation
6 of their civil rights, any violation of the Voting Rights Act, any violation of their “right
7 to associate” or a violation of any other federally or constitutionally protected right.
8 Plaintiffs have also failed to establish that there is a burden placed upon them that is
9 distinguishable from the limited burden placed on all voters. Moreover, while Plaintiffs
10 have attempted to portray a stacked system that prevents them from having the
11 opportunity to vote, the actual facts presented prove just the opposite – not a single
12 Plaintiff is unable to register or vote at the polls on Election Day.

13 Thus, Arizona voters took appropriate proactive and preemptive steps to detect
14 and deter voter fraud and to promote public confidence in the electoral process by
15 passing Proposition 200, which is a reasonable, non-discriminatory regulation. Given the
16 positive prophylactic effect of the Proposition 200 requirements, it is difficult to
17 understand the objection to them. This is especially puzzling given the fact that there is
18 no evidence of discrimination or abuse in the application of the law and certainly no
19 evidence that Plaintiffs are unable to comply with the law. Given the reasonable, non-
20 discriminatory regulation at issue and all of the evidence that has been presented, it is
21 misleading to continue to characterize this law in terms of race. No one seriously would
22 argue, for example, that there has not been a real history of discrimination, or even abuse
in some places, of Hispanics by members of our citizenry. No one would seriously argue
either that lawful immigrants do not continue to experience struggles by virtue of being
in a new country, or because of language barriers that may interfere with the transaction
of everyday business. The Counties in no way would condone such treatment, and do
not intend to be characterized as doing so by virtue of their advocacy here. But, the fact
is that those struggles are not causally connected any alleged voting infringement and, in

1 reality, Plaintiffs have shown no impediment to voting at all by virtue of the passage of
2 Proposition 200.

3 There is some educational requirement that comes with the passage of every law
4 and the State and Counties have undertaken the job of fully informing Arizona citizens
5 about the changes to the voting laws. However, education of our citizenry to new laws
6 is nothing new and is certainly not unduly burdensome. Thus, in essence, unless this law
7 has unfairly targeted a particular class of persons by its enactment or enforcement or
8 unless it is unduly burdensome, then there simply is no basis to tamper with it. The facts
9 do not support Plaintiffs' claims and show clearly that citizens of this country, having
10 either been born here or having taken the trouble to become citizens, are not unduly
11 burdened by this law and in most cases can comply simply by using their driver license.
12 Indeed, it is insulting to presume that someone who has taken that time and trouble to
13 become a naturalized citizen cannot comply with the simple requirements set forth by
14 Arizona law. It is also clear that the County election officials, despite a few anticipated
15 hiccups in enforcement issues, which would be expected while the law was being
16 implemented state wide, have done a superb job in doing all they can to make sure
17 people are NOT shut out of the system and have every opportunity to reasonably
18 comply. Since the implementation of the law, Arizona has administered it evenly and
19 fairly to all people seeking to register to vote or to vote at the polls on Election Day. No
20 one is being turned away because of their race or national origin and compliance with
21 the law is not an undue burden.

22 Plaintiffs have failed in proving any real harm that has resulted from the
implementation of this law. In fact, each and every one of the named Plaintiffs in this
lawsuit is able to register to vote and to vote at the polls on Election Day. Plaintiffs have
not been able to produce a single Latino or Native American person who has been
unable to comply with the law and, as such, Plaintiffs have not carried their burden on
any of their claims. County Defendants reurge the Motions for Summary Judgment still
pending before the Court and respectfully request that the Court uphold the
Constitutionality and implementation of the law by granting judgment in favor of the

1 Defendants. Nothing materially new has been presented by Plaintiffs since the
2 Preliminary Injunction hearing and there is no basis for any Permanent Injunction now.

3 **II. STATE HAS A SPECIFIC, COMPELLING STATE INTEREST IN**
4 **PREVENTING ELECTION FRAUD AND SECURING THE ELECTION**
5 **PROCESS**

6 Arizona has the obligation to structure the electoral process “to maintain the
7 integrity of the democratic system.” *Burdick v. Takushi*, 504 U.S. 428, 441 (1992)
8 (quoting *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983)). While every election
9 provision “inevitably affects - at least to some degree - the individual's right to vote and
10 his right to associate with others for political ends...the state's important regulatory
11 interests are generally sufficient to justify reasonable, nondiscriminatory restrictions.”
12 *Anderson*, 460 U.S. at 788. Arizona has multiple *compelling* interests being advanced
13 by the Proposition 200 laws that far surpass the threshold requirement of “important
14 regulatory interests.” In its recent decision upholding Indiana’s voter identification law,
15 the Supreme Court reiterated this theme by stating that even if the law imposed a limited
16 burden on voters, Indiana’s asserted interest was unquestionably relevant to its interest
17 in protecting the integrity and reliability of the electoral process. *Crawford v. Marion*
18 *County Election Bd.*, 128 S. Ct. 1610 (2008). Similarly, Arizona’s voter requirements
19 are justified because of the compelling interest in preventing election fraud, ensuring
20 only eligible voters are registered to vote, and maintaining public confidence in the
21 electoral system.

22 **A. Arizona has a Compelling Interest in Securing Elections Against**
Voter Fraud.

An evidentiary showing of fraud is not required in order to uphold a reasonable
restriction on voting. *Crawford v. Marion County Election Bd.*, 128 S. Ct. 1610, 1617,
1619 (2008) (recognizing states’ interests of deterring and detecting voter fraud and
promoting public confidence in the integrity of the electoral process, even in absence of
any evidentiary showing of fraud in the state’s electoral process.) Even in 1982 the
Supreme Court held it would not “second guess a legislative determination as to the need
for prophylactic measures where corruption is the evil feared.” *Federal Election*

1 *Commission v. National Right to Work Committee*, 459 U.S. 197, 210 (1982). Since
2 then, voter fraud has been addressed at every level of government. The Carter-Baker
3 Commission on election reform acknowledged the reality of voter fraud, stating: “*there*
4 *is no doubt that it occurs.*” Carter-Baker Report at 18 (emphasis added).

5 Beyond the mere possibility of voter fraud, which in and of itself would justify
6 reasonable restrictions, lies the fact that Arizona has experienced **real** instances of voter
7 fraud in this state. Certainly, the full extent of the potential or real abuse occurring
8 cannot be known without a system, such as the one being challenged here. The
9 Government cannot possibly run down every instance of voter fraud or abuse after the
10 fact and, as Joe Kanefield testified, even in instances where subsequent detection and
11 prosecution can occur there is no mechanism for retrieving and discounting a fraudulent
12 ballot cast at the polls on Election Day. Thus, requiring the voter to register with the
13 proof of their citizenship and requiring them to provide identification when voting at the
14 polls on Election Day is a far preferable and cost effective method of insuring the
15 integrity of the voting process, than requiring the Government to establish fraud after the
16 fact.

17 While prior to the passage of Proposition 200, Arizona essentially relied on an
18 honor system for registering to vote and voting at the polls, there were parallel state and
19 federal systems that assisted in identifying some instances of voter fraud. The
20 effectiveness of these systems pale by comparison to the obviously more effective
21 requirement of the voter to establish these bona fides up front, but they do provide some
22 insight into the fact that voter fraud is a real problem for Arizona that must be combated.
For instance, the Maricopa County jury commissioner promptly notifies the Maricopa
County Recorder of juror questionnaires that indicate the individuals are not United
States citizens. A.R.S. §§16-101 & 16-165(A). In 2007 the Maricopa County Elections
Department documented the names of the individuals whose voter registrations were
cancelled upon receiving the commissioner’s notifications. 07-31-06 K. Osborne
deposition at 15:23-16:23. During this time, there were 168 registrations cancelled
because the registrants were non-citizens. *Id.* In addition, since August 2003 the U.S.

1 Citizenship and Immigration Services (USCIS) has requested information from the
2 County regarding voter registration and voting history of individuals that has applied to
3 become naturalized citizens. *Id.* at 12:1-19, 13:10-14. The Maricopa County Elections
4 Department has kept a record of the USCIS requests for this information. *Id.* Of 100
5 individuals requesting such information, 74 of the individuals were registered to vote
and 25 had voted in an election. *See id.*

6 The enactment of Proposition 200's new voter regulations has further assisted in
7 detecting and deterring voter fraud stemming from the registration of fictitious or non-
8 consenting individuals, often solely for the profit of the person collecting the
9 registrations. In recent years voter registration organizations have submitted thousands
10 of completed voter registration forms for persons who do not exist and forms from
11 persons who did not consent to the registration. As a result of Arizona strengthening its
voter registration process, thousands of these bogus voter registrations and the
registrations of ineligible persons have not been added to the voter registration database.

12 In her deposition, Maricopa County Elections Director Karen Osborne expressed
13 her frustration with the voter registration organizations that have misled legal residents,
14 who were not yet U.S. citizens, into registering to vote. 01-14-08 K.Osborn deposition at
15 26:9-28:5; 28:9-30:1. At trial, the Court could see and hear examples of the kind of
16 misleading and erroneous information being cast out by some of the Plaintiff
17 organizations such as Chicanos Por La Causa through the testimony of their director,
18 with the stated intent of educating the public, but in fact doing just the opposite, and
19 actually deterring Hispanics from registering or voting. The paid voter registration
20 circulators are also known to be using unscrupulous tactics, in an effort to earn a few
21 dollars for each completed registration, and are successfully convincing non-citizens to
22 register to vote. *Id.* To counter any misinformation about voter registration eligibility,
Maricopa County increased its voter registration and outreach efforts. *Id.* However,
under the old system, a non-citizen who registered to vote, regardless of the
intentionality, had nothing to stop that registration from being processed. Once
processed, the non-citizen has violated the law and could be deemed ineligible for

1 citizenship.¹ Proposition 200 provides a mechanism for stopping these errant
2 registrations without imposing any penalty on the registrant.

3 The deplorable tactics used against resident aliens are not the only type of voter
4 fraud that the enactment of Proposition 200 has deterred in Arizona. Ms. Osborne also
5 testified about one voter registration organization that in 2004 submitted completed
6 voter registrations forms she could only describe as “garbage.” *Id.* at 28: 9-30: 1.
7 Following the passage of Proposition 200, the rate of rejection of voter registrations was
8 high at first, then declined in 2006, but went back up in 2007. *Id.* at 69: 6-70:24. Ms.
9 Osborne attributed the spike of voter registration rejection in 2007 to another large voter
10 registration organization that pays its circulator a set dollar amount per completed form
11 and was submitting similarly unverifiable forms. *Id.*

12 Ms. Osborne explained that voter registration forms rejected prior to passage of
13 Proposition 200 could only be rejected based on the face of the registration, such as
14 detecting forgery or *clear* fabrication. *Id.* Thus, it is likely that many of the 2004
15 “garbage” forms were entered into the voter rolls, despite the strong suspicion that were
16 not the result of a live person choosing to register. With the implementation of the proof
17 of citizenship requirement, the registrant must prove that he or she is the person
18 completing the form, rather than a forger, and the registrant is a person that actually
19 exists. *Id.* Since fictitious people will not have proof of citizenship, the law now
20 provides a mechanism to keep these “garbage” registrations off of the voter rolls.

21 Additionally, the voter identification law allows the State to ensure that no ill-
22 intending person may vote using one or more of the names of non-existent voters that
may have been added to the voter registration database prior to the proof of citizenship

¹ *In Re Centi*, 211 Fed. 559 (W.D. Tenn. 1914)(non-citizen that was registered to vote and voted was not of good moral character and not entitled to be admitted as a citizen). *But see* 8 U.S.C.A. § 1101(f) (A finding of absence of good moral character may not be made in the case of an alien who makes a false statement or claim of citizenship, or who registers to vote or votes in a federal, state, or local election in violation of a lawful restriction of such registration or voting to citizens, if each natural parent of the alien is or was a citizen, the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such statement, claim, or violation that he or she was a citizen.

1 requirement. Thus, the voter identification requirement allows the State and its citizens
2 to be assured through reasonable restrictions that the person voting is in fact the same
3 *eligible* person who is registered on the voter rolls. Both provisions further the State’s
4 interests by ensuring that only qualified electors are registered and voting and by
promoting public confidence in the electoral process.

5 **B. Arizona Has A Compelling Interest In Ensuring That Voters Have**
6 **Confidence In The Integrity Of The Electoral Process.**

7 In addition to being an essential component of our representative democracy, “. . .
8 public confidence in the integrity of the electoral process has independent significance,
9 because it encourages citizen participation in the democratic process.” *Crawford*, 128 S.
10 Ct. at 1620. Not only are legitimate votes diluted when voter fraud is perpetrated, but
11 voters’ confidence in the electoral process suffers harm.² This confidence, when shaken,
12 is very difficult to restore. Arizona’s proof of citizenship for voter registration and voter
13 identification laws are a reasonable, non-discriminatory method for verifying legitimate
14 voters and detecting fraudulent efforts. Such election security measures enhance the
15 electorate’s certainty that only legitimate ballots will be cast and counted. While the
16 State need only demonstrate an “important regulatory interest,” *Anderson*, 460 U.S. at
17 788, Arizona actually has a compelling interest in preserving the integrity of its election
18 process. *See Eu v. San Francisco County Democratic Central Committee*, 489 U.S. 214,
231 (1989); *Rosario v. Rockefeller*, 410 U.S. 752, 761 (1973). As such, Arizona’s law
should be upheld.

21 ² Stephen Ansolabehere and Nathan Persily, *Vote Fraud in the Eye of the Beholder: The Role of Public Opinion in*
22 *the Challenge to Voter Identification Requirements*, 121 Harv. L. Rev. 1737 (2008)(empirical research to evaluate
public perception on voter fraud).

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III. PLAINTIFFS HAVE NOT PRESENTED SUFFICIENT EVIDENCE TO PREVAIL ON THEIR VOTING RIGHTS ACT CLAIM

Latinos have not been shown to have been disparately impacted in either voter registration or in person polling place voting. In order to prevail on their Voting Rights Act claim, Plaintiffs must have established by other than anecdotal references that Proposition 200, as enacted and applied, actually results in a wholesale discrimination on the basis of race. Proposition 200, however, is applied evenly and equally to every individual attempting to register or vote at the polls in Arizona, and does not deny or abridge any Plaintiff's "right to vote on account of race." *Farrakhan v. Wash.*, 338 F.3d 1009, 1019 (9th Cir., 2003). While social and historical factors may be considered, Plaintiffs' still must prove that the voting practice is *itself* connected to the prohibited result. This they have not done.

Not a single of Plaintiffs' five experts provided credible information to show that Latino citizens have been harmed by the implementation of proof of citizenship at the time of registration. Dr. Espino studied Hispanic voter registration trends and testified that in 2/3 of Arizona's counties, Hispanics are actually **doing better** after Proposition 200 than they were before Proposition 200. While Plaintiffs attempt to minimize or use smoke and mirrors to outright ignore the simple implications of this statistic, they cannot. The fact is clear no matter how they cut it – there has been no disparate impact on Latinos. Similarly Dr. Lanier's data shows that Latino and non-Latino voter registrations have actually increased since the passage and enactment of Proposition 200. This is all while Latino *citizen* voting age population has experienced a smaller growth rate than non-Latino citizen voting age population following the implementation of Proposition 200. The facts are stubborn things.

1 Similarly, Plaintiffs supplied no expert testimony that provides any basis on
2 which to find that Latinos have been disparately impacted by the voting identification
3 requirements. The only expert who offered *any* opinions on this issue was Dr. Lanier,
4 but this opinion was withdrawn from the record. Regardless, even he does not offer any
5 evidence that Latinos in Arizona disproportionately lack identification. In reality he
6 could not offer that opinion because each County offers at least two forms of non-photo
7 ID, free of charge – the Voter Registration Card and a Recorder’s Certificate. Many
8 send out official election mail that can be used as non-photo ID as well.

9 Finally, even if some impact had been shown, which it has not, no expert has
10 offered evidence of a causal connection between the alleged historical and social
11 discriminations and Proposition 200 itself, and indeed they seemed to purposefully
12 ignore the Proposition or testimony that Latinos would be disparately impacted by it
13 because of their national origin. As such, Plaintiffs cannot, and have not, prevailed on
14 their Voting Rights Act claims.

14 **IV. PLAINTIFFS CANNOT PREVAIL ON THEIR EQUAL PROTECTION CLAIMS**

15 For a facial challenge under the Equal Protection Clause, Plaintiffs must prove
16 that the law imposed “excessively burdensome requirements on any class of voters”
17 *Crawford v. Marion County Election Bd*, 128 S.Ct. 1610, 1615 (2008). There has been
18 no evidence that the laws enacted by Proposition 200 are excessively burdensome on
19 *any* class of people, much less Latinos or naturalized citizens. The single person that
20 Plaintiffs could produce, Ms. Preiss, who claims to lack proof of citizenship, is, in fact,
21 neither Latino nor a naturalized citizen. Furthermore, as stated above, Plaintiffs experts
22 have not shown that Latinos or naturalized citizens are bearing any undue burden under
Arizona’s laws or that they are any less able to comply with the law than the general

1 population. As such, Plaintiffs have not met their burden to overturn Arizona’s voter
2 laws under a facial challenge alleging equal protection violations.

3 For an “as applied” challenge under the Equal Protection clause of the
4 Constitution, Plaintiffs must show that there has been an unfair burden imposed on the
5 challengers’ rights. *Burdick v. Takushi*, 504 US 428, 438-39 (1992). Even if some
6 burden is shown, laws that impose only reasonable, non-discriminatory restrictions on
7 voting rights, such as Arizona’s voting laws, are generally justified by a state’s
8 important regulatory interest that outweigh the burden. *Id.* at 434. As stated in detail
9 above, Arizona’s voting regulations promote multiple compelling state interests,
10 including detecting and deterring voter fraud. The Supreme Court has recognized that
11 deterring and detecting voter fraud are valid State interests, even absent a showing of
12 actual voter fraud. *Crawford*, 128 S. Ct. at 1617, 1619. Thus even if an individual’s
13 right to vote had been affected to some degree, the compelling interests of the State
14 would be sufficient to justify the law. *Id.; Anderson*, 460 U.S. at 788. However, in the
15 present case not a single Plaintiffs is unable to register or vote at the polls on Election
16 Day. Thus, Plaintiffs cannot prevail on their equal protection claims.

15 **V. PLAINTIFFS CANNOT PREVAIL ON THEIR CIVIL RIGHTS**
16 **ACT CLAIMS**

17 The Civil Rights Act, Title VI, § 601, provides in relevant part: “[N]o person in
18 the United States shall, on the ground of race, color, or national origin, be excluded from
19 participation in, be denied the benefits of, or be subjected to discrimination under any
20 program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d. It is
21 “beyond dispute” that, to establish a claim under Title VI, Plaintiffs must prove
22 *intentional* discrimination on the basis of race or national origin. *Alexander v. Sandoval*,
532 US 275, 280 (2001). Plaintiffs have not shown any discrimination, much less

1 intentional discrimination, against Latinos, Native Americans or naturalized citizens as a
2 result of the enactment of Proposition 200. Arizona’s voter regulations apply equally to
3 every Arizona citizen, regardless of race or national origin. To the extent that the
4 Proposition 200 laws create a classification at all, they do so based upon legitimate voter
5 eligibility requirements – citizenship and verification of one’s identity. Arizona has a
6 compelling interest in establishing the accuracy of these voter requirements and
7 Plaintiffs have not produced one scintilla of evidence to overcome the State’s interests
8 and justify overturning the voter requirements enacted by Proposition 200.

9 **VI. PLAINTIFFS CANNOT PREVAIL ON THEIR FIRST**
10 **AMENDMENT CLAIM**

11 The organizational Plaintiffs have claimed that Proposition 200 “forces” them to
12 expend funds to educate voters and, thus, violates their right to free speech and
13 association. As their representatives have testified, the organizations are not “forced” to
14 do anything because in fact Prop 200 does not even apply to the organizations in any
15 direct way. The Counties and State have conducted the vast majority of the public
16 education about the changes stemming from Proposition 200. The organizational
17 representatives could not point to a single, specific expenditure that had been made after
18 the enactment of Proposition 200 that would not have been made anyway or was not
19 geared at some other interest of the organization. Valle del Sol’s representative testified
20 that the Spring 2006 get out the vote effort conducted by her organization was in direct
21 connection with approximately \$4 million of bond money on the ballot in which Valle
22 del Sol had a vested interest.

21 Furthermore, Plaintiffs’ representatives have testified that they continue to
22 register people to vote after the enactment of Proposition 200 and admitted that their

1 organizations are not responsible for verifying anyone’s information or citizenship
2 status. Chicanos por la Causa and Valle del Sol’s representatives both admitted that
3 their organizations continue to provide various other services as well and regularly
4 provide education to their constituency regardless of Prop 200. Valle del Sol’s CEO
5 admitted that voter registration is not even her organization’s “core business.” Moreover,
6 expenses incurred, albeit *de minimis* were shown to be part of their organizations’
7 charter or stated purpose anyway and not some brand new expense “forced” on the
8 organizations by Proposition 200. According to Chicanos Por La Causa, many of the
9 educational efforts are in conjunction with other programs that were offered prior to
10 Proposition 200 and are simply a brief adjunct to them.³

11 Thus, Plaintiffs are still free to associate with their constituency and conduct the
12 affairs of their organizations without any undue restriction or burden placed on them by
13 virtue of the law. Even if voter registration were the primary business of these
14 organizations, which it is not, these organizations have provided no evidence that they
15 are presently able to register fewer voters than they were before. In fact the only
16 evidence that these Organizations offer at all are their admissions that they are still
17 registering voters and are not aware of any specific individual who is eligible to vote, but
18 has been unable to register or vote as a result of Proposition 200. As such, Plaintiffs
19 clearly cannot prevail on a First Amendment claim.

20 **VII. CONCLUSION**

21 States are given wide latitude to regulate the order and security of the election
22 process. Arizona’s proof of citizenship requirement for voter registration and voter

³ It is interesting to note that the only mentions of Proposition 200 in the curricula provided by Chicanos Por La Causa indicate that the organization is actually **not** attempting to educate its constituency on how to comply with Arizona’s laws.

1 identification laws are essential in protecting the integrity and reliability of the electoral
2 process. The State unquestionably has an interest in preventing fraudulent voter
3 registration and fraud at the polls in order to insure the security of its elections and to
4 increase public confidence in the electoral process. Furthermore, Plaintiffs have wholly
5 failed to prove that anyone is unduly burdened by Arizona's laws or that the laws
6 disproportionately affect a particular, protected group. The citizens of Arizona have
7 prudently enacted reasonable, non-discriminatory laws to advance the compelling state
8 interests of deterring and detecting voter fraud and of promoting public confidence in the
9 electoral system reserved for citizens. The County Defendants respectfully request that
10 the Court grant the State and Counties' Motions for Summary Judgment, now before it.
11 In the alternative, the County Defendants respectfully request that the Court deny
12 Plaintiffs relief on all counts and affirm the will of Arizona's voters by upholding
13 Proposition 200.

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RESPECTFULLY SUBMITTED this 25th day of July 2008.

ANDREW P. THOMAS
MARICOPA COUNTY ATTORNEY

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-and-

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of July, 2008, I caused the foregoing document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

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this 25th day of July, 2008.

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3 COPY of the foregoing mailed with Notice of
4 Electronic Filing and MAILED
5 this 25th day of July, 2008 to:

6 The Honorable Roslyn O. Silver
7 United States District Court
8 Sandra Day O'Connor U.S. Courthouse, Suite 624
9 401 West Washington Street, SPC 59
10 Phoenix, AZ 85003-2158

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/s Tonya Mills