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18 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

19 Maria M. Gonzalez, et al., ) Case No. CV-06-1268-PHX-ROS  
20 ) Case No. CV-06-1362-PHX-ROS  
Plaintiffs, ) (cons)  
21 ) Case No. CV-06-1362-PHX-ROS  
22 vs. ) (cons)  
)  
23 State of Arizona, et al., ) GONZALEZ PLAINTIFFS'  
) MOTION FOR EXTENSION OF  
24 Defendants. ) PRETRIAL DEADLINES AND  
) FOR MODIFICATION OF THE  
25 ) TIME ALLOWED FOR TRIAL  
26

1 \_\_\_\_\_  
2  
3 Plaintiffs Maria M. Gonzalez, et al. (Gonzalez Plaintiffs), respectfully move this  
4 Court to: 1) extend the June 13, 2008 deadline for the submission of responses and/or  
5 oppositions to dispositive motions to June 16, 2008; 2) extend the deadline for the parties  
6 to submit their Joint Pretrial Order, Motions in Limine and Joint Statement of the Case  
7 from June 16, 2008 to June 20, 2008; and 3) modify the trial schedule so that Plaintiffs  
8 will be allowed at least 10 days in which to present their case. In support of their  
9 motion, Plaintiffs state as follows:  
10

11 **The Final Amended Scheduling Order of March 27, 2008**  
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13 1. On March 27, 2008, this Court issued a Final Amended Scheduling Order setting  
14 the deadline for the submission of final dispositive motions on June 6, 2008. *See* Dkt.  
15 Entry No. 740 at 4. The Court allowed 10 days, until June 16, 2008, for the filing of  
16 responses to any dispositive motions.  
17

18 2. In the same Order, the Court set the deadline for the submission of the Joint  
19 Pretrial Order, Motions in Limine and the Joint Statement of the Case for July 15, 2008.  
20 *See id.* The Court further ordered that, in the event dispositive motions were filed, the  
21 Joint Pretrial Order, Motions in Limine and the Joint Statement of the Case would be due  
22 30 days following the resolution of the dispositive motions. *See id.* at 4-5. The parties  
23 were therefore ensured a period of at least 30 days between the deadline for the  
24 submission of dispositive motions and the submission of the Joint Pretrial Order. This  
25 allowed the parties sufficient time to review all motions for summary judgment and the  
26

1 responses to such motions, to determine the facts that would ultimately be disputed at  
2 trial before the submission of the Joint Pretrial Order.

3  
4 3. The Court also ordered that the trial would begin on July 29, 2008, but did not  
5 determine how many days would be allowed for trial. *See id.*

6  
7 **The Amended Scheduling Order of May 19, 2008**

8 4. On May 19, 2008, this Court issued a new pretrial schedule and trial date. *See*  
9 Dkt. Entry No. 768. Under the new schedule, the deadline for the submission of  
10 dispositive motions remains the same, but the period in which to submit responses to the  
11 motions changed from 10 days to 7 days. *See id.* at 1.

12  
13 5. The Court also changed the deadline for submitting the Joint Pretrial Order,  
14 Motions in Limine and the Joint Statement of the Case from July 15, 2008 (or 30 days  
15 after the resolution of dispositive motions) to June 16, 2008. *See id.* The new deadline  
16 only allows 3 days between the filing of oppositions to dispositive motions and the  
17 submission of these pre-trial documents.

18  
19 6. Finally, the Court also determined that the trial would commence on July 1, 2008,  
20 and that the parties would have 6 days in which to try the case. *See id.*  
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1 **The New Deadlines Do Not Provide Plaintiffs With Sufficient Time to Respond to**  
2 **State Defendants' Dispositive Motions or to Participate Fully in the Preparation of**  
3 **the Joint Pretrial Order**

4 7. State Defendants have stated that they will file motions for summary judgment on  
5 all claims brought by Plaintiffs on June 6, 2008. See Dkt. Entry No. 762 at 2. Under the  
6 local rules for the District Courts in Arizona, Plaintiffs would ordinarily have 30 days in  
7 which to respond to these motions. See LRCiv 56.1(a). Plaintiffs do not believe that they  
8 will be able to respond to State Defendants' anticipated motions in only 7 days, as a  
9 thorough response to State Defendants' motions will likely require the submission of  
10 numerous declarations in order to illustrate the genuine issues of material fact that exist  
11 as to all claims brought by Plaintiffs. Plaintiffs also expect that they will have to identify  
12 and submit other evidence from the extensive documentary record in this case in response  
13 to State Defendants' dispositive motions.  
14

15 8. Plaintiffs therefore respectfully request that the Court restore the 10-day period for  
16 the submission of any opposition to dispositive motions, and reset the deadline to June  
17 16, 2008.  
18

19 9. In addition, Plaintiffs request that the Court reset the deadline for the submission  
20 of the Joint Pretrial Order, Motions in Limine, and the Joint Statement of the Case from  
21 June 16, 2008 to June 20, 2008. The current deadline, which allows only 3 days between  
22 the submission of oppositions to dispositive motions and the deadline to submit these  
23 documents, does not allow sufficient time for the parties to determine the facts and legal  
24 issues that will be in dispute at trial – a determination that must be made for the purpose  
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1 of completing the Joint Pretrial Order, any motions in limine and the Statement of the  
2 Case.

3  
4 **The Time Allowed for Trial Will Not Allow Plaintiffs Sufficient Time to Present  
Their Case.**

5 10. Gonzalez Plaintiffs can be ready for trial on July 1, 2008, as ordered by this Court.  
6  
7 However, Gonzalez Plaintiffs have been unable to secure agreements with Defendants  
8 regarding the use of lay and expert deposition testimony and the admission of evidence  
9 from the preliminary injunction hearing that would shorten the trial time in the case. For  
10 example, Defendants will not agree to a proposal by Gonzalez Plaintiffs to shorten trial  
11 time by stipulating to the admission of expert reports in lieu of live testimony or to  
12 shorten trial time by stipulating to the admission of the evidence from the preliminary  
13 injunction hearing held previously by the court. Therefore, Gonzalez Plaintiffs anticipate  
14 that they will have to call over 30 witnesses at trial, including 5 experts, a number of  
15 plaintiffs and representatives from plaintiff organizations, and a number of lay witnesses  
16 who will testify regarding the impact of Proposition 200 on them personally. Gonzalez  
17 Plaintiffs expect that, even assuming brief testimony from the lay witnesses, they will  
18 require at least 9 days to present their case-in-chief and it is Gonzalez Plaintiffs'  
19 understanding that the ITCA Plaintiffs will require at least one full day to present their  
20 case. Gonzalez Plaintiffs therefore request that this Court modify the trial schedule to  
21 allow Plaintiffs sufficient time to prove their case.  
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1 11. The deadlines requested by Plaintiffs will not interfere with the current setting for  
2 the commencement of trial and will not cause any undue prejudice to Defendants in this  
3 case.

4  
5 For the foregoing reasons, Gonzalez Plaintiffs respectfully request that this Court  
6 grant their motion.

7  
8 DATED this 30th day of May, 2008.

9  
10 Respectfully submitted,

11  
12 By s/ Nina Perales

13 Counsel for Plaintiffs  
14 Gonzalez, et al.

15 COPY of the foregoing filed electronically  
16 this 30 day of May, 2008.

17 COPY of the foregoing mailed with Notice  
18 Of Electronic Filing this 30<sup>th</sup> day of May, 2008 to:

19 The Honorable Roslyn O. Silver  
20 United States District Court  
21 Sandra Day O'Connor U.S. Courthouse, Suite 624  
22 401 West Washington Street, SPC 59  
23 Phoenix, AZ 85003-2158

24  
25  
26  
s/Nina Perales

**CERTIFICATE OF CONFERENCE**

I hereby certify that, on May 29 and 30, 2008, counsel for Gonzalez Plaintiffs requested that the other parties in this matter indicate whether they oppose or do not oppose this motion. ITCA Plaintiffs and Coconino County Defendants do not oppose this motion. Counsel for the 12 County Defendants have communicated to Gonzalez Plaintiffs that they oppose this motion. State Defendants have communicated to Gonzalez Plaintiffs that they oppose the request to move the pre-trial deadlines. Gonzalez Plaintiffs have not received any response from State Defendants regarding the allocation of 10 days of trial time to Plaintiffs.

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Nina Perales