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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 MARIA M. GONZALEZ, et al.,

11 Plaintiffs,

12 vs.

13 STATE OF ARIZONA, et al.,

14 Defendants.
15
16

Case No.: CV 06-1268-PHX-ROS (Lead)
CV 06-1362-PHX-ROS
CV 06-1575-PHX-ROS

MOTION TO QUASH SUBPOENA

(ORAL ARGUMENT
REQUESTED)

17 Pursuant to Rule 45(c)(3) of the Federal Rules of Civil Procedure, Pima County
18 Treasurer Beth Ford hereby requests this Court to quash the subpoena received on
19 February 4, 2008, from the Plaintiffs demanding “all uncounted provisional and
20 conditional ballot envelopes from each election held in the county since January 2005.”
21 This motion is supported by the attached memorandum of points and authorities and the
22 affidavit of Pima County Treasurer Beth Ford.
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RESPECTFULLY SUBMITTED this 6th day of February 2008.

BARBARA LAWALL
PIMA COUNTY ATTORNEY

By: /s/
Daniel Jurkowitz
Deputy County Attorney

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1 Her statutory role is merely to serve as a repository. Even if the Court were to order
2 compliance with the subpoena, it would constitute an undue burden for her office to sort
3 through unknown materials and produce ones meeting the definitions of those demanded.
4

5 For the foregoing reasons, the Pima County Treasurer respectfully requests this Court to
6 quash the aforementioned subpoena.
7

8
9 RESPECTFULLY SUBMITTED this 6th day of February 2008.

10 BARBARA LAWALL
11 PIMA COUNTY ATTORNEY

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13 By: /s/
14 Daniel Jurkowitz
15 Deputy County Attorney
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AFFIDAVIT OF PIMA COUNTY TREASURER BETH FORD

Beth Ford, being first duly sworn, upon her oath deposes and says:

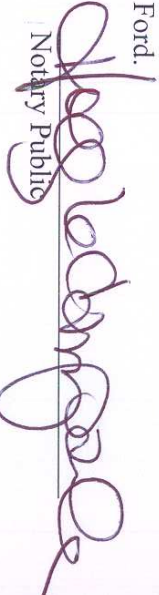
1. I am the elected Treasurer of Pima County, Arizona.
2. One of my statutory responsibilities is to receive official election returns and ballots.
3. Pursuant to A.R.S. § 16-624(A), I am required to keep those election materials unopened and unaltered for the statutorily prescribed period of time in a secure facility.
4. The only legal authority I have to access those election materials once they are in my custody is when they are due to be destroyed, and when an election recount is ordered or an election contest is begun. At that time I may only deliver those materials to the custody and control of the ordering court.
5. I have no further statutory election responsibilities and only have very limited knowledge of other election laws and regulations.
6. Official election returns and ballots are stored in the designated secure facility in inventoried boxes.
7. However, I have no knowledge of the specific contents of those boxes, nor am I sufficiently knowledgeable in election matters to be able to distinguish what would be “uncounted provisional and conditional ballot envelopes.”
8. It would constitute a distinct and undue burden on the Treasurer’s Office to be required to sort through voluminous unknown materials in an attempt to provide the documents demanded.

FURTHER AFFIANT SAYETH NAUGHT



Pima County Treasurer Beth Ford

SUBSCRIBED AND SWORN to before me, the undersigned Notary Public,
on this 6th day of February, 2008, by Beth Ford.



Notary Public



My Commission Expires _____

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 6th day of February 2008, I electronically transmitted the
3 attached document to the Clerk's Office using the CM/ECF System for filing and
4 transmittal of a Notice of Electronic Filing to the following CM/ECF registrants.

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