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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Maria M. Gonzalez, et al.,)	No. CV-06-1268-PHX-ROS(Lead)
)	No. CV-06-1362-PCT-JAT(Cons.)
Plaintiffs,)	No. CV-06-1575-PHX-EHC(Cons.)
)	
vs.)	GONZALEZ PLAINTIFFS'
)	MOTION FOR LEAVE TO FILE
State of Arizona, et al,)	RESPONSE IN OPPOSITION TO
)	STATE DEFENDANTS' REPLY IN
Defendants.)	SUPPORT OF MOTION TO
)	STRIKE PORTIONS OF ITCA's
)	FACTUAL SUBMISSION

(Assigned to the
Honorable Roslyn O. Silver)

NOW COME Gonzalez Plaintiffs and file this Motion for Leave to File Response in Opposition to State Defendants' Reply in Support of Motion to Strike Portions of ITCA's Factual Submission. Gonzalez Plaintiffs seek leave to respond to Defendants' Reply because in it, Defendants, for the first time, challenge the reliability of Gonzalez Plaintiffs' expert reports under Fed. R. Evid. 703. *See* Dkt. Entry No. 879.

On June 20, 2008 State Defendants filed their Motion to Strike Portions of ITCA Plaintiffs' Factual Submission in Response to Motion for Summary Judgement. *See* Dkt. Entry No. 851. ITCA Plaintiffs responded on June 24, 2008. *See* Dkt. Entry No. 868. On June 26, 2008 this Court ordered Defendants to file a Reply in support of their Motion to Strike and to address "among other things, whether Plaintiffs' expert reports are unreliable under Fed. R. Evid. 703." Dkt. Entry No. 876.

Although the Court's June 26, 2008 Order referred specifically to ITCA Plaintiffs' Factual Submission, and ITCA's sole expert witness is Tony Sissons, Defendants nonetheless insisted in their Reply that, "[t]he Court ordered briefing on whether Gonzalez plaintiffs' expert reports are unreliable under Fed. R. Evid. 703." *See* Dkt. Entry No. 879 at 2. Defendants never discussed the reliability of Gonzalez Plaintiffs' expert reports in their original Motion to Strike, and Defendants' Reply marks the very first time the issue is raised. *Compare* Dkt. Entry No. 851 *with* Dkt. Entry No. 879.

Because State Defendants now challenge the reliability of the reports of Gonzalez Plaintiffs' experts Dr. Louis Lanier and Dr. Rodolfo Espino under Fed. R. Evid. 703, Gonzalez Plaintiffs respectfully move this Court for leave to file their Response in Opposition.

DATED this 30th day of June, 2008. Respectfully submitted,

By: s/Nina Perales
Nina Perales

Counsel for Plaintiffs
Gonzalez, et al.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of June, 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 CM/ECF registrants.

COPY of the foregoing filed electronically
this 30th day of June, 2008.

COPY of the foregoing mailed with Notice
of Electronic Filing this 30th day of June, 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/Nina Perales
Nina Perales

