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## 27 **B. STATEMENT OF JURISDICTION/VENUE**

### 28 **Plaintiffs' Statement of Jurisdiction/Venue:**

29 Jurisdiction is based upon 28 U.S.C. § 1343a(3) & (4) and upon 28 U.S.C. §  
30 1331 for causes of action arising from 42 U.S.C. § 1971 and § 1973, 28 U.S.C. §§  
31 1361, 13617(a), 42 U.S.C. § 1973gg-4, and 42 U.S.C. § 2000d. Jurisdiction for  
32 Plaintiffs' claim for declaratory relief is based upon 28 U.S.C. §§ 2201 and 2202.  
33 Jurisdiction for Plaintiffs' constitutional and federal statutory claims is also based  
34 upon 42 U.S.C. § 1983. Jurisdiction for Plaintiffs' claim for attorneys fees is based on

1 42 U.S.C. §§ 19731(e) and 1988. Venue is proper in this Court under 28 U.S.C. §  
2 1391(b).

3 **Defendants’ Statement of Jurisdiction/Venue:**

4 Jurisdiction in this case is based on federal question under 28 U.S.C. § 1331.

5 **C. NATURE OF ACTION.**

6 **Plaintiffs’ Nature of Action:**

7 This is a challenge to the voting related provisions of the Arizona Taxpayer  
8 and Citizen Protection Act of 2004 (“Proposition 200”). Plaintiffs contend that the  
9 Act’s provisions requiring certain forms of voter identification for voting at the polls  
10 and requiring documentary proof of citizenship for voter registration are  
11 unconstitutional and violate federal statutes. This is an action for declaratory and  
12 injunctive relief wherein plaintiffs seek an order enjoining enforcement of the voting  
13 related provisions of Proposition 200.

13 **Defendants’ Nature of Action:**

14 These two consolidated cases challenge Arizona’s requirements of proof of  
15 citizenship to register to vote and identification to vote in person at the polls on  
16 Election Day. Defendants contend that the voting requirements are reasonable and  
17 non-discriminatory restrictions that promote integrity in the electoral process.

18 **D. JURY/NON-JURY.** No party has demanded a jury trial of all or any  
19 of the issues.

20 **E. CONTENTIONS OF THE PARTIES**

21 **Plaintiffs’ Contentions:**

22 **COUNT I:**

23 In order to prevail on their First Amendment Claim, Plaintiffs must prove the  
24 following elements: that the voter registration provisions of Proposition 200 impair  
25 Plaintiffs’ ability to register voters and that they are not narrowly tailored to further a  
26 compelling state interest. Plaintiffs seek injunctive relief on this claim.

1                                   **COUNT II:**

2                   In order to prevail on their Equal Protection Claim, Plaintiffs must prove the  
3 following elements: That Proposition 200’s proof of citizenship requirements treat  
4 differently a class of individuals and are not narrowly tailored to further a compelling  
5 state interest. Plaintiffs seek injunctive relief on this claim.

6                                   **COUNT III:**

7                   In order to prevail on the Equal Protection claim based on the fundamental  
8 right to vote, the plaintiffs must prove the following elements: Proposition 200  
9 burdens the right of U.S. citizens to register to vote and/or vote and the State’s  
10 interests are (a) not sufficiently weighty to justify Proposition 200’s burden on the  
11 right to vote, or (b) “unrelated to voter qualifications.” *Crawford v. Marion County*  
12 *Election Board*, 128 S. Ct. 1610, 1616 (2008) (quoting *Harper v. Va. Bd. of*  
13 *Elections*, 383 U.S. 663 (1966); citing *Burdick v. Takushi*, 504 U.S. 428 (1992);  
*Norman v. Reed*, 502 U.S. 279 (1992)).

14                                   **COUNT IV:**

15                   In order to prevail on their claim under Section 2 of the Voting Rights Act (42  
16 U.S.C. § 1973), Plaintiffs must prove the following elements: that the Proposition  
17 200 voter identification and proof of citizenship requirements disparately affect  
18 Latino and/or Native American voters and that under the totality of circumstances,  
19 the challenged requirements abridge or deny Latinos’ and/or Native Americans right  
20 to vote or provide Latinos and/or Native Americans with less opportunity than other  
21 members of the electorate to participate in the political process. *See* 42 U.S.C. §  
22 1973(b). Plaintiffs seek injunctive relief on this claim.

23                                   **COUNT V:**

24                   In order to prevail on their claim under Title VI of the Civil Rights Act of  
25 1965 (42 U.S.C. § 2000d, *et seq*), Plaintiffs must prove the following elements: That  
26 Proposition 200’s proof of citizenship requirements treat individuals differently on

1 the basis of their national origin and that the disparate treatment is not justified by a  
2 legitimate non-discriminatory reason. Plaintiffs seek injunctive relief on this claim.

### 3 **Defendants' Contentions**

4 There are four remaining legal claims in these cases. Those claims are based  
5 on the equal protection clause, section 2 of the Voting Rights Act, Title VI of the  
6 Civil Rights Act and the First Amendment. In addition, the ITCA plaintiffs' equal  
7 protection claim is both facial and as-applied.

8 To establish an equal protection claim, plaintiffs must prove that the  
9 restrictions at issue (proof of citizenship and voting identification) impose an undue  
10 burden on plaintiffs' right to vote. To establish a facial challenge to the voting  
11 restrictions, plaintiffs must show that "no set of circumstances exists under which the  
12 Act would be valid." *Washington State Grange v. Washington State Republican*  
13 *Party*, 128 S. Ct. 1184, 1190 (2008). Even as-applied challenges require a showing  
14 of the burden imposed on the challengers' voting rights. *Burdick v. Takushi*, 504  
15 U.S. 428, 438-39 (1992). (holding that the prohibition on write-in voting imposed  
16 only a limited burden on voters' rights, which was justified by the state's interest in  
17 promoting the integrity of its primary election system).

18 States have an important interest in deterring and detecting voter fraud and in  
19 public confidence in the integrity of the electoral process. *Crawford v. Marion*  
20 *County Election Board*, 128 S. Ct. 1610 (2008). Laws that impose only reasonable,  
21 non-discriminatory restrictions on voting rights generally are justified by a state's  
22 important regulatory interests. *E.g.*, *Burdick*, 504 U.S. at 434. Plaintiffs seeking to  
23 invalidate such laws, whether facially or as-applied, must demonstrate that the laws  
24 actually impose an undue burden on plaintiffs or some class of voters. *Crawford*,  
25 128 S. Ct. at 1623.

26 Moreover, courts give great deference to restrictions that relate to voter  
qualifications. *Crawford*, 128 S. Ct. at 1616 ("evenhanded restrictions that protect

1 the integrity and reliability of the electoral process itself are no invidious and satisfy  
2 the standard set forth in *Harper*”) (internal quotations omitted).

3 In these cases, plaintiffs must show that *their* right to vote is unduly burdened  
4 by the proof of citizenship and voting identification requirements. Moreover, they  
5 must show more than some minimal burden to establish a constitutional violation.  
6 *Burdick*, 504 U.S. at 433 (“[e]lection laws will invariably impose some burden upon  
7 individual voters”).

8 To establish a § 2 claim, plaintiffs must show that the challenged restrictions  
9 actually result in discrimination based on race. *Smith v. Salt River Project Agric.*  
10 *Improvement & Power Dist.*, 109 F.3d 586, 595 (9<sup>th</sup> Cir. 1997) (“Only a voting  
11 practice that results in discrimination gives rise to § 2 liability.”). Plaintiffs cannot  
12 meet their burden by showing merely a bare statistical impact on a racial minority.  
13 *Id.*

14 Although plaintiffs may show that social and historical factors interaction with  
15 the challenged voting practice to result in a disparate impact, plaintiffs must prove  
16 that the voting practice is itself connected to the prohibited result, *i.e.*, voting  
17 discrimination. Thus, in these cases, plaintiffs must prove that historical or social  
18 discrimination is causally related to a lack of proof of citizenship or voting  
19 identification on the part of a racial minority (here, Latinos and Native Americans).  
20 *E.g.*, *Badillo v. City of Stockton*, 956 F.2d 884, 890 (9<sup>th</sup> Cir. 1992) (“[T]he challenged  
21 device must be shown actually to impair the ability of minority voters to elect  
22 representatives of their choice.”).

23 To establish a Title VI claim, plaintiffs must show that they have been  
24 discriminated against on the basis of race or national origin. *Thomas v. City of Saint*  
25 *Paul*, 526 F. Supp. 2d 959, 967 (D. Minn. 2007) (stating that Title VI “prohibits  
26 discrimination on the basis of race, color, or national origin”); *see also* 42 U.S.C.  
§ 2000d (“No person . . . shall, on the ground of race, color, or national origin, be  
excluded from participation in, be denied the benefits of, or be subjected to

1 discrimination under any program or activity receiving Federal financial  
2 assistance.”).

3 Thus, plaintiffs here must show that they actually have been discriminated  
4 against on the basis of race or national origin by the proof of citizenship and voting  
5 identification requirements. In addition, plaintiffs must establish that the challenged  
6 voting restrictions *intentionally* discriminate on the basis of race or national origin.  
7 *Alexander v. Sandoval*, 532 U.S. 275, 280 (2001) (it is “beyond dispute” that “§ 601  
8 prohibits only intentional discrimination”); *see also Chance v. Reed*, 538 F. Supp. 2d  
9 500, 510-11 (D. Conn. 2008) (granting summary judgment in favor of the defendants  
10 on Title VI claim where the plaintiff did not offer direct evidence of discriminatory  
11 intent for the defendants’ conduct); *Thomas*, 526 F. Supp. 2d at 967-68 (granting  
12 summary judgment in favor of the defendant where the evidence was insufficient as a  
13 matter of law to show that the defendant had intentionally discriminated against the  
14 plaintiffs).

15 To establish a First Amendment claim, plaintiffs must show that the  
16 challenged restrictions unduly burden their free speech or associational rights. *Rubin*  
17 *v. City of Santa Monica*, 308 F.3d 1008, 1014 (9<sup>th</sup> Cir. 2002) (upholding an election  
18 restriction in a First Amendment challenge where the plaintiff did not show that the  
19 restriction imposed a severe burden and where the state had important regulatory  
20 interests furthered by the restriction). “Courts will uphold as ‘not severe’ restrictions  
21 that are generally applicable, even-handed, politically neutral, and which protect the  
22 reliability and integrity of the election process.” *Id.*

23 Election restrictions that are not severe are reviewed by a less exacting standard. *Id.*  
24 at 1017. Under that standard, such regulations will be upheld if they are reasonable  
25 and nondiscriminatory and further an important state interest. *Id.* States have wide  
26 authority to regulate elections. *Id.* at 1014. Because states’ important regulatory  
interests are generally sufficient to justify reasonable, nondiscriminatory restrictions,

1 “a party challenging such a regulation bears a ‘heavy constitutional burden.’” *Id.* at  
2 1017.

3 **F. STIPULATIONS AND UNDISPUTED FACTS**

4 The parties stipulate and agree to the following facts:

5 1. The voters passed Proposition 200 in November 2004, amending  
6 A.R.S. §§ 16-152, 16-166 and 16-579.

7 2. The State of Arizona implemented Proposition 200’s documentary  
8 evidence of citizenship requirement after it was pre-cleared by the Department of  
9 Justice on January 24, 2005. *See* Counties’ and State’s Responses to Gonzalez  
10 Plaintiffs’ RFA No. 5.

11 3. An elector who is dropping off his or her early ballot at a precinct  
12 voting location is not required to show Polling ID. *See* Secretary of State’s  
13 Procedures Manual, at 133.

14 4. Most new voter registrants have used a driver’s license number or non-  
15 operating identification license number to register. *See* Affidavit of Karen Osborne,  
16 Maricopa County Elections Director, at ¶ 10).

17 5. Only persons who own real property will have access to a property tax  
18 statement in their name.

19 6. Only persons who own a car will have a vehicle insurance card or  
20 vehicle registration form in their name.

21 7. On November 2, 2004, Arizona voters adopted by ballot initiative  
22 Proposition 200 (“Prop 200”).

23 8. Plaintiff Maria Gonzalez possesses a certificate of naturalization.

24 9. Plaintiff Maria Gonzalez is registered to vote in Yuma County.

25 10. Plaintiff Jesus Gonzalez possesses a certificate of naturalization.

1           11. Plaintiff Bernie Abeytia possesses a valid Arizona driver's license that  
2 was issued after October 1, 1996.

3           12. Plaintiff Bernie Abeytia is registered to vote in Maricopa County.

4           13. Plaintiff Georgia Morrison Flores possesses a valid Arizona driver's  
5 license that was issued after October 1, 1996.

6           14. The name on plaintiff Georgia Morrison Flores' current Arizona  
7 driver's license is Georgia Ann Morrison-Flores.

8           15. Plaintiff Georgia Morrison Flores is registered to vote in Yuma  
9 County.

10          16. Plaintiff Debbie Lopez is registered to vote in Maricopa County.

11          17. Plaintiff Debbie Lopez possesses voting identification sufficient to  
12 comply with Prop 200.

13          18. Eva Steele is registered to vote in Maricopa County.

14          19. Neither Eva Steele nor Shirley Preiss claims to be Latino or Native  
15 American.

16          20. All Arizona counties establish polling places and times and dates for  
17 early voting for each primary and general election.

18          21. Early voting in each Arizona county is conducted for approximately  
19 one month before each primary and general election.

20                   **G. PLAINTIFFS' CONTENTIONS OF DISPUTED FACTS**

21           1. Proposition 200 constitutes an undue burden on the right to vote.

22           2. Voter fraud by non-U.S. citizens in Arizona elections either does not  
23 exist, or if it does, is so infrequent as to be considered de minimis.

24           3. Latinos and Native Americans are impacted more severely than others  
25 by the "satisfactory evidence of citizenship" requirement of Proposition 200.

26           4. Latinos are impacted more severely than others by the Polling ID  
requirement of Proposition 200.

1           5.     State law requirements prior to Proposition 200 were sufficient to  
2 protect against non-citizen and imposter voting.

3           6.     Proposition 200's proof of citizenship requirements single out foreign  
4 born U.S. citizens for different and greater burdens in voter registration.

5           7.     Proposition 200's proof of citizenship requirements single out persons  
6 who have become citizens through naturalization for different and greater burdens in  
7 voter registration.

8           8.     The Secretary of State has issued procedures implementing  
9 Proposition 200's requirement that voters present certain forms of identification  
10 ("Polling ID") to vote in person at the polling place. *See* "Procedure for Proof of  
11 Identification at the Polls" (the "Polling Place Procedures"), dated October 2007.

12           9.     The Polling ID requirements do not apply to voters who vote by mail or  
13 at early voting sites. *See* Counties' and State's Responses to Gonzalez Plaintiffs'  
14 RFA No. 16.

15           10.    The Polling Place Procedures allow county election officials to exercise  
16 discretion to accept additional forms of identification not specifically listed in the  
17 Polling Place Procedures if they "establish the identity of the elector in accordance  
18 with the requirements of A.R.S. § 16-579(A)." *See* SOS Manual, at 128.

19           11.    Under the Polling Place Procedures, a voter's ballot can be processed  
20 one of the three ways depending upon the form of the elector's Polling ID. *See* SOS  
21 Manual at 129-31, 135-36. The Polling Place Procedures include a separate  
22 "Identification Requirement for Native American Electors." *Id.* at 135.

23           12.    From January 2005 through the Fall of 2007, 14 of Arizona's 15  
24 counties (excluding Santa Cruz County) rejected the voter registration applications of  
25 at least 31,550 individuals for failure to provide "satisfactory evidence of  
26 citizenship," as defined by A.R.S. § 16-166(F). *See* ITCA Exhibit 130 (Lanier 4th  
Supplemental Report).

1           13. Arizona’s 15 counties produced to the Gonzalez Plaintiffs copies of  
2 4,194 conditional provisional ballot envelopes. *See id.* at 5, n.5. The conditional  
3 provisional ballots inside the copied envelopes were given to voters who poll workers  
4 determined had not presented sufficient Polling ID and were not counted.

5           14. During the November 7, 2006 general election, the County Defendants  
6 were ordered to “track the number of prospective voters that do not have appropriate  
7 identification and choose to leave the polling location rather than cast a conditional  
8 provisional ballot.” [Doc. 241] At least 2,422 voters exited polling places without  
9 casting any type of ballot at all after being asked to present Polling ID. ITCA Ex. 77-  
10 78. There was no way to track the number of those individuals who later returned to  
the polling location with identification.

11           15. Defendants have not identified any incident since January 1, 1996 in  
12 which an individual impersonated a registered voter at a polling place.

13           16. Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Mohave,  
14 Navajo, Pinal, Santa Cruz and Yavapai Counties have not identified any non-U.S.  
15 citizen registered to vote in those 12 counties since January 1, 1996. Yuma County  
16 has identified one non-U.S. citizen registered to vote in Yuma County since January  
17 1, 1996. ITCA Ex. 5-7, 9-14, 16-17, 24, 72.

18           17. A person cannot obtain “satisfactory evidence of citizenship” without  
19 paying a fee of at least \$10. [Doc. 219, at 9]

20           18. As of July 25, 2006, approximately 374,595 registered voters did not  
21 have a driver’s license or non-operating identification. *See* ITCA Exhibit 52 at 1,  
22 Letter from William Richards, Counsel for the Arizona Attorney General’s office, to  
David Rosenbaum, counsel for ITCA Plaintiffs.

23           19. An Arizona driver who moves need not obtain an updated license with  
24 a current address; those who move within Arizona and do not update their license  
25 cannot use their existing license as Polling ID to obtain a regular ballot if the address  
26

1 on their license does not match the address in the voter rolls. *See* ITCA Exhibit 59  
2 (ADOT “Service Arizona Info” web page).

3 20. The Arizona Motor Vehicle Division is the only state agency from  
4 which a citizen may obtain official photo identification.

5 21. Most MVD offices are open during business hours Monday through  
6 Friday, and may close during the lunch hour. *See* ITCA Exhibit 39, ADOT website  
7 information regarding hours and locations of ADOT offices in Maricopa, Pima,  
8 Coconino, Graham, Greenlee, La Paz, Santa Cruz, and Yuma Counties.

9 22. Four MVD offices in three counties – Coconino, Mojave, and Pima –  
10 do not operate on a full work week and are only open three to four weekdays and no  
11 weekends. *Id.* Graham, Greenlee, La Paz, Santa Cruz, and Yuma counties have only  
12 one office issuing driver’s licenses. *Id.*

13 23. An Arizona non-operating identification license costs \$12.

14 24. An Arizona driver’s license costs between \$10 and \$25 depending on  
15 the driver’s age. A duplicate license costs \$4.00. *See* ITCA Exhibit 40, ADOT’s  
16 “Driver License Frequently Asked Questions” web page.

17 25. The MVD fees for Arizona driver’s licenses cannot be waived. The fee  
18 for an Arizona nonoperating identification card may be waived if an individual is  
19 over 65 or is on Supplemental Security Income (SSI).

20 26. Obtaining a driver’s license or non-operating license requires an  
21 applicant to produce other forms of identification. *See id.* ADOT’s “Driver License  
22 Frequently Asked Questions” web page. To obtain a driver’s license or non-  
23 operating identification, a voter must provide two documents from a combined list of  
24 “primary” and “secondary” documents, one of which must provide the voter’s photo  
25 and one of which must come from the list of “primary documents.” *See* ITCA  
26 Exhibit 41, printout of ADOT’s list of “Identification Requirements.” If an applicant  
lacks any form of photo identification, the applicant may produce three such  
documents, which must include at least one primary document. *Id.*

1           27. All documents must be originals or copies that are certified by the  
2 issuing agency. *Id.*

3           28. A “primary” document includes such documentation as a driver’s  
4 license from another state, a birth certificate, passport, certificate of naturalization or  
5 citizenship, tribal certificate of Indian blood, or military identification. *Id.*

6           29. Examples of secondary documents include a driver’s license from  
7 another state, social security card, bank card or credit card, marriage certificate, or  
8 documents from a court of record. *Id.*

9           30. A United States passport for an applicant over age sixteen costs \$100.  
10 *See* ITCA Exhibit 43, printout of State Department’s “Passport Fees” webpage,  
11 [http://travel.state.gov/passport/get/fees/fees\\_837.html#?css=print](http://travel.state.gov/passport/get/fees/fees_837.html#?css=print).

12           31. For persons born in Arizona, a certified copy of a birth certificate costs  
13 between \$10-15. *See* Exhibit 42, printout of Arizona Division of Public Health  
14 Services webpage addressing applying for birth certificates.

15           32. For persons born outside of Arizona, birth certificates must be  
16 purchased for varying fees. *See* Exhibit 44, printout of vitalchek.com website, listing  
17 charges for obtaining birth certificates from four states.

18           33. To obtain an Arizona birth certificate, one must produce “a valid  
19 government-issued picture identification” bearing the applicant’s signature. *See*  
20 ITCA Exhibit 42, printout of Arizona Division of Public Health Services webpage  
21 addressing applying for birth certificates.

22           34. If an applicant born in Arizona was never issued a birth certificate, she  
23 must apply for a “delayed” birth certificate. *See* Exhibit 45, printout of Arizona  
24 Division of Public Health Services webpage addressing applying for “delayed” birth  
25 certificates. First, the applicant must establish that, in fact, she has no birth  
26 certificate on file with the Office of Vital Records. *Id.* The applicant must pay \$10  
and file an application for a certified copy of her birth certificate. *Id.* If none is

1 found, Vital Records will issue a “Certificate of No Record” and mail the applicant a  
2 “Delayed Birth Application Packet.” *Id.*

3 35. The applicant must complete the information in the Delayed Birth  
4 Application Packet, which, if the applicant is fifteen years or older, includes all of the  
5 following:

- 6 ■ A notarized “Affidavit of Facts of Birth,” completed by a  
7 person with personal knowledge describing when and where the  
8 child was born.
- 9 ■ One “independent factual document” established before  
10 the child was ten years old, that contains the child’s name, date  
11 of birth, place of birth, and the date the document was  
12 established.
- 13 ■ One “independent factual document” that was established  
14 at least five years ago, containing the same information.
- 15 ■ One “independent factual document” establishing the  
16 mother’s presence in Arizona at the time of the child’s birth.  
17 The document must include the mother’s name, street address  
18 and date. The Vital Records website states that “th[e]  
19 information must establish that the mother was, in fact, in the  
20 State of Arizona on the date the child was born.” *Id.*

21 36. The Delayed Birth Packet must include the Certificate of No Record.  
22 *Id.*

23 37. A replacement Certificate of Naturalization costs \$220. *See* ITCA  
24 Exhibit 47 at page 12 of 12, printout of U.S. Citizenship and Immigration Services  
25 webpage “Forms and Fees” listing cost of Replacement Naturalization document.

26 38. Southwest Gas charges a \$35 “service establishment charge” to begin  
gas service. APS charges \$25 (plus tax) as an “activation fee.” *See id.*, Southwest  
Gas and APS web pages describing fees.

39. SRP charges a \$240 deposit to begin service for individuals who have  
no credit history with SRP. *Id.* (SRP and APS websites describing deposit amounts).  
APS charges a deposit to begin service that will not exceed two times the average  
monthly bill at the service address. *Id.* In lieu of a deposit, APS will accept a letter

1 of credit from an electric utility company where service was received for at least 12  
2 consecutive months within the last two years. *Id.* SRP, APS, and SW Gas offer  
3 some form of low-income assistance programs. The descriptions of these programs  
4 on the utilities' websites do not include any statement about whether the programs  
5 decrease or otherwise affect the initial fees or deposits required for beginning utility  
6 service. *See id.*, webpages for SRP, APS, and SW Gas describing their respective  
7 assistance programs.

8 40. Opening a basic checking account requires a minimum opening deposit  
9 ranging from \$25 to \$100. *See* ITCA Exhibit 48, websites for Bank One/Chase,  
10 Arizona Federal Credit Union, Bank of America, and Wells Fargo describing  
11 minimum required opening balances.

12 41. In 2002, according to a federal study by the General Accounting Office,  
13 an estimated 21% of the national Anglo population is 21% is "unbanked," i.e.  
14 without a bank account. The Black and Hispanic populations are 52% and 50%  
15 unbanked, respectively, an increase over prior estimates. *See* ITCA Exhibit 49.

16 42. In 2002, according to a federal study by the General Accounting Office,  
17 an estimated 17% of the national population with an income of \$45,000 or more were  
18 unbanked, and 51% of those with incomes of \$15,000 or less were unbanked. *Id.*

19 43. The Polling Place Procedures do not require counties to send "official  
20 election mail," addressed to each individual voter that may be used as Polling ID.  
21 *See* Exhibit SOS Manual.

22 44. In 2008, the Maricopa County Recorder's Office does not intend to  
23 send "official election mail" addressed to each individual voter that may be used as  
24 Polling ID. *See* ITCA Exhibit 134. Approximately 56 percent of the registered  
25 voters in Arizona live in Maricopa County. *See* Exhibit 133.

26 45. Counties do not send "official election mail" to inactive voters.

46. A Recorder's Certificate is available only to a voter whose name does  
*not* appear on the precinct register due to the Recorder's error.

1           47.     The total population of Arizona was 5,130,632 at the time of the 2000  
2 Census. *See* ITCA Exhibit 63.

3           48.     The voting age population of Arizona was 3,763,685 at the time of the  
4 2000 Census. *See* ITCA Exhibit 64.

5           49.     Persons aged 18 and over comprised 73.4 percent of Arizona's total  
6 population at the time of the 2000 Census. *See* ITCA Exhibit 60, (Census 2000  
7 Table DP-1).

8           50.     U.S. citizens comprised 91.0 percent of the total population of the State  
9 of Arizona at the time of the 2000 Census. *See id.*, (Census 2000 Table DP-2).

10          51.     According to the Arizona Department of Economic Security, the  
11 State's total population in July 2005 was 6,044,985, an increase of 17.82 percent over  
12 the State's total population at the time of the 2000 Census. *See* ITCA Exhibit 63.

13          52.     As of January 1, 2005, there were 2,706,223 active registered voters in  
14 Arizona according to the Secretary of State's Registration Report. *See* ITCA Exhibit  
15 133.

16          53.     As of March 1, 2008, there were 2,694, 974 active registered voters in  
17 Arizona according to the Secretary of State's Registration Report. *Id.*

18          54.     The Arizona Secretary of State has calculated that there were 2,972,214  
19 registered voters listed as of July 25, 2006 in the database maintained by the  
20 Secretary of State. The Secretary of State has further calculated that, of these  
21 2,972,214 registered voters, the Secretary's database reflects an ID number from an  
22 Arizona driver's license or non-operator ID card for 2,597,619 (or 87.3 percent). The  
23 Secretary's database does not contain a driver's license number or non-operator's  
24 number for 374,595 (or 12.6%) of registered voters. *See* ITCA Exhibit 52, letter  
dated July 27, 2006 from Bill Richards, counsel for Arizona Secretary of State, to  
David Rosenbaum, counsel for ITCA Plaintiffs.

25          55.     The Arizona Department of Transportation, Motor Vehicle Division,  
26 has determined that, as of August 3, 2006, the total number of current/valid Arizona

1 driver's licenses and Arizona identification cards held by individuals over age 17 was  
 2 4,750,942. Of that total, 576,040, or 12.1%, were issued prior to October 1996. *See*  
 3 ITCA Exhibit 59, (letter from Director of Arizona Motor Vehicles Division to Bill  
 4 Richards, Attorney General's Office, dated August 3, 2006).

5 56. The following table shows data from the 2000 Census, Summary File  
 6 3, selected tables as noted below:

	Selected statistics about Arizona's Indian Reservations		Selected statistics about Arizona's non- Reservation population	
	Number	Percent	Number	Percent
Total Households	47,354		1,853,973	
House heating fuel (Table H40)				
Natural gas utility	7,655	16.17%	705,213	38.04%
Bottled gas	9,568	20.21%	88,968	4.80%
Electricity	9,191	19.41%	1,023,904	55.23%
Wood	19,262	40.68%	20,580	1.11%
All other fuels	1,678	3.53%	15,308	0.82%
Telephone service available (H43)				
Yes	25,438	53.72%	1,805,568	97.39%
No	21,916	46.28%	48,405	2.61%
Vehicle available (H44)				
Yes	37,371	78.92%	1,723,377	92.96%
No	9,983	21.08%	130,596	7.04%
Total Dwelling Units	65,049		2,124,140	
Plumbing facilities (H47)				
Complete plumbing	41,987	64.55%	2,107,570	99.22%
Lacking some plumbing	23,062	35.45%	16,570	0.78%
Kitchen facilities (H50)				
Complete kitchens	43,593	67.02%	2,104,945	99.10%
Lacking complete kitchen	21,456	32.98%	19,195	0.90%

18 According to Census 2000, Summary File 3, the average median household income is  
 19 \$42,463 for Anglos, \$31,673 for Hispanics, and \$24,514 for Native Americans  
 20 (Table P152). *See* Exhibit 68. The per capita income is \$23,088 for Anglos, \$10,629  
 21 for Hispanics, and \$8,828 for Native Americans (Table P157). *See id.* The  
 22

1 percentage below the federal poverty level is 6.22 percent for Anglos, 11.18 percent  
2 for Hispanics, and 19.69 percent for Native Americans (Table P159). *See id.* The  
3 “satisfactory evidence of citizenship” requirement of Proposition 200 constitutes a  
4 severe or substantial restriction on the fundamental right to vote. The Polling ID  
5 requirement of Proposition 200 constitutes a severe or substantial restriction on the  
6 fundamental right to vote.

7 \* Gonzalez Plaintiffs’ additional disputed facts are attached as Exhibit A.

8  
9 **H. DEFENDANTS’ CONTENTIONS OF DISPUTED FACTS**

10 1. There is no causal connection between historical and social  
11 discrimination against Latino Americans in Arizona and a lesser likelihood that such  
12 individuals obtain or possess proof of citizenship sufficient to comply with Prop 200.

13 2. There is no causal connection between historical and social  
14 discrimination against Latino Americans in Arizona and a lesser likelihood that such  
15 individuals obtain or possess voting identification sufficient to comply with Prop  
16 200.

17 3. There is no causal connection between historical and social  
18 discrimination against Native Americans in Arizona and a lesser likelihood that such  
19 individuals obtain or possess proof of citizenship sufficient to comply with Prop 200.

20 4. There is no disparate impact on Latino citizens’ voter registrations in  
21 Arizona since the implementation of Prop 200.

22 5. There is no disparate impact on Latino citizens’ voter turnout in  
23 Arizona since the implementation of Prop 200.

24 6. There is no disparate impact on Native American citizens’ voter  
25 registrations in Arizona since the implementation of Prop 200.

26 7. All but one Arizona county accept official election mail as one form of  
non-photo identification for voting at the polls.

1           8.     Arizona counties send publicity pamphlets before each election to each  
2 individual registered to vote in the respective counties.

3           9.     Sections 3, 4 and 5 of Prop 200 amended Arizona's voting laws in two  
4 substantive ways: (1) applicants to register to vote were required to submit proof of  
5 U.S. citizenship; and (2) voters who choose to vote in-person at the polls on Election  
6 Day (as opposed to early voters) would be required to present identification.

7           10.    Prop 200 was implemented in January 2005.

8           11.    None of the ITCA plaintiffs lacks proof of citizenship sufficient to  
9 comply with Prop 200.

10          12.    None of the ITCA plaintiffs lacks voting identification sufficient to  
11 comply with Prop 200.

12          13.    None of the Gonzalez plaintiffs lacks proof of citizenship sufficient to  
13 comply with Prop 200.

14          14.    None of the Gonzalez plaintiffs lacks voting identification sufficient to  
15 comply with Prop 200.

16          15.    Plaintiff Bernie Abeytia has voted in Arizona since Prop 200 was  
17 implemented

18          16.    Plaintiff Georgia Morrison Flores is not registered with a recognized  
19 Arizona political party.

20          17.    Plaintiff Rep. Gallardo does not know of any citizens who lack proof of  
21 citizenship to register to vote.

22          18.    Plaintiffs have identified only two individuals, Eva Steele and Shirley  
23 Preiss, who allegedly lack proof of citizenship to comply with Prop 200.

24          19.    Plaintiffs have identified only one individual, Eva Steele, who allegedly  
25 lacks voting identification sufficient to comply with Prop 200.

26          20.    All but one of the organizational plaintiffs lack knowledge of the  
number or identities of individuals lacking proof of citizenship.

1           21. Plaintiffs lack knowledge of any Latino American citizen who lacks  
2 proof of citizenship sufficient to comply with Prop 200.

3           22. Plaintiffs lack knowledge of any Latino American citizen who lacks  
4 voting identification sufficient to comply with Prop 200.

5           23. Plaintiffs lack knowledge of any Native American citizen who lacks  
6 proof of citizenship sufficient to comply with Prop 200.

7           24. Each of the Arizona tribes represented by the ITCA, and for which  
8 discovery was provided, issues tribal enrollment or identification cards to their  
9 respective members, and all but one of those tribes issue such cards without charge.

10          25. Naturalized citizens may provide their alien registration number to  
11 comply with the proof of citizenship requirement.

12          26. Every naturalized citizen is entitled to a certificate of naturalization  
13 issued by the United States.

14          27. Every certificate of naturalization contains an alien registration number.

15          28. Individuals who have a tribal enrollment card or other tribal  
16 identification may provide the identification number on such card to comply with the  
17 proof of citizenship requirement.

18          29. As of August 2006, at least 87.4% of Arizona's voting eligible citizens  
19 possessed a valid Arizona driver's license or non-operating license.

20          30. Prop 200 does not intentionally discriminate against individuals on the  
21 basis of race, color or national origin.

22          31. Maricopa County has experienced non-U.S. citizens registering to  
23 vote.

24          32. Maricopa County has experienced non-U.S. citizens attempting to  
25 register to vote.

26          33. All Arizona county elections departments are required to issue voter  
registration cards at no cost to individuals who register to vote in those respective  
counties.

1           34. All Arizona county recorders are required to provide a Recorder's  
2 Certificate at no cost to individuals who sufficiently establish their identity as a  
3 registered voter in the respective counties.

4           **I. ISSUES OF LAW IN CONTROVERSY**

5           1. Plaintiffs state that the following issues of law are in controversy:

6           a. Whether the burden imposed by the "satisfactory evidence of  
7 citizenship" requirement of Proposition 200 outweighs the State's purported interests.

8           b. Whether the burden imposed by the Polling ID requirement of  
9 Proposition 200 outweighs the State's purported interests.

10           c. Whether the absence of a no-cost alternative to "satisfactory  
11 evidence of citizenship" makes that requirement an invidious restriction.

12           d. Whether Proposition 200 violates the Equal Protection Clause of  
13 the Fourteenth Amendment to the United States Constitution with respect to  
14 naturalized citizens.

15           e. Whether Proposition 200 violates the First Amendment of  
16 United States Constitution.

17           f. Whether, under the totality of the circumstances, Proposition  
18 200 violates Section 2 of the Voting Rights Act, 42 U.S.C. § 1973.

19           g. Whether Proposition 200 violates Title VI of the Civil Rights  
20 Act of 1965, 42 U.S.C. § 2000d.

21           Defendants state the following issues of law are in controversy:

22           a. Whether plaintiffs' challenging voting restrictions must prove  
23 those restrictions impose an excessive burden on individual plaintiffs for some class  
24 of voters.

25           b. Whether plaintiffs must prove that the challenged voting  
26 restrictions have a causal connection to any discriminatory impact on a racial  
minority.

1 c. Whether plaintiffs must prove that the challenged voting  
2 restrictions impose an unconstitutional restriction on plaintiffs' First Amendment  
3 rights.

4 d. Whether plaintiffs have proved that Prop 200's voting  
5 requirements intentionally discriminate on the basis of race or national origin.

6 e. Whether plaintiffs have proved that there is a discriminatory  
7 impact on Latino and Native Americans caused by Prop 200's voting requirements.

8 f. Whether the State has an important regulatory interest in  
9 deterring and detecting voter fraud and in ensuring public confidence in the electoral  
10 process.

11 **J. SEPARATE TRIAL OF ISSUES**

12 Separate trial of any of the issues is not advisable or feasible.

13 **K. WITNESSES**

14 **Gonzalez Plaintiffs' Witnesses:**

15 Witnesses marked with an "\*" may be called at trial and witnesses marked with an  
16 "\*\*" are unlikely to be called at trial.

17 MARIA MAGDALENA GONZALEZ	Ms. Gonzalez will testify regarding her experience trying to register vote and regarding discrimination against Latinos in Arizona
18 JESUS MARIA GONZALEZ	Mr. Gonzalez will testify regarding his experience trying to register to vote and regarding discrimination against Latinos in Arizona
19 DEBBIE LOPEZ	Ms. Lopez will testify regarding her efforts to register voters in Arizona and regarding discrimination against Latinos in Arizona
20 GEORGIA MORRISON- FLORES	Ms. Morrison Flores will testify regarding her registration to vote and her experience with voter identification
21 SAL MARTINEZ (Chicanos Por La Causa, Inc.)	Mr. Martinez will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.

1	LUZ SARMINA GUTIERREZ Valle del Sol	Ms. Sarmina Gutierrez will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on her organization's effort to increase Latino registration and voting.
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5	RODOLFO ESPINO	Dr. Espino will provide expert testimony regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on voter registration and/or voting in Arizona.
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7	JORGE CHAPA	Dr. Chapa will provide expert testimony regarding demographic characteristics of the Arizona population.
8	RICHARD ENGSTROM	Dr. Engstrom will provide expert testimony regarding racially polarized voting and voting behavior, including voter turnout, in Arizona.
9		
10	LOUIS LANIER	Dr. Lanier will provide expert testimony regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on voter registration and/or voting in Arizona.
11		
12	F. AURTURO ROSALES	Dr. Rosales will provide expert testimony regarding discrimination against Latinos in Arizona.
13		
14	JOSEPH KANEFIELD Arizona State Election Director	Mr. Kanefield will testify as the official representative of the Secretary of State with regard to state implementation of Proposition 200's voter identification and documentary proof of citizenship provisions.
15		
16	CRAIG STENDER HAVA Project Manager for the Arizona Secretary of State	Mr. Stender will testify as the official representative of the Secretary of State with regard to state implementation of Proposition 200's voter identification and documentary proof of citizenship provisions.
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19	DONNA COLLINS Arizona Motor Vehicles Division	Ms. Collins will testify regarding the procedures of the Arizona MVD that relate to implementation of Proposition 200's documentary proof of citizenship provisions.
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21	CINDY GAGE Arizona Motor Vehicles Division	Ms. Gage will testify regarding the procedures of the Arizona MVD that relate to implementation of Proposition 200's documentary proof of citizenship provisions.
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24	ANNE YANOFSKY East Central Region Manager, Arizona Motor Vehicles Division	Ms. Yanofsky will testify regarding the procedures of the Arizona MVD that relate to implementation of Proposition 200's documentary proof of citizenship provisions.
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26	LAURA DEAN-LYTLE	Ms. Dean-Lytle will testify regarding the

1	Pinal County Recorder	implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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3	KELLY DASTRUP Navajo County Election Director	Ms. Dastrup will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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5	ANN WAYMAN- TRUJILLO Yavapai County Recorder	Ms. Wayman-Trujillo will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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7	LISA MCKEE Director Navajo County Elections	Ms. McKee will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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10	PENNY L. PEW Apache County Election Director	Ms. Pew will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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12	PATTY HANSEN Coconino County Election Director	Ms. Hansen will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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14	GILBERTO HOYOS Pinal County Election Director	Mr. Hoyos will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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16	KAREN OSBORNE Maricopa County Election Director	Ms. Osborne will testify as the official representative of the Maricopa County Recorder's Office with regard to the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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18	KRYSTY MARIN Yuma Voter Registration Coordinator	Ms. Marin will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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20	LENORA JOHNSON Apache County Recorder	Ms. Johnson will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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22	SUE STALLWORTH Yuma County Election Director	Ms. Stallworth will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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25	JASPER ALTAHA Maricopa Voter Registration Manager	Mr. Altaha will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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F. ANN RODRIGUEZ Pima County Recorder	Ms. Rodriguez will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
LAURETTE JUSTMAN Navajo County Recorder	Ms. Justman will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
GERRI RATLIFF U.S. Citizenship and Immigration Services	Ms. Ratliff will testify regarding procedures of U.S. Citizenship and Immigration Services and documentary proof of U.S. citizenship
MICHAEL QUINN U.S. Citizenship and Immigration Services	Mr. Quinn will testify regarding procedures of U.S. Citizenship and Immigration Services and documentary proof of U.S. citizenship
ELIZABETH ARCHULETA Coconino Board of Supervisors	Supervisor Archuleta will testify regarding the presence of Section 2 Senate Factors in Arizona and the impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
ALFREDO GUTIERREZ	Mr. Gutierrez will testify regarding the presence of Section 2 Senate Factors in Arizona and the impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
PETE RIOS State Representative	Representative Rios will testify regarding the presence of Section 2 Senate Factors in Arizona and the impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
KAT RODRIGUEZ Coalicion de Derechos Humanos Alianza Indigena Sin Fronteras	Ms. Rodriguez will testify will testify regarding the presence of Section 2 Senate Factors in Arizona
*BERNIE ABEYTIA	Mr. Abeytia will testify regarding his experience with voter identification and regarding discrimination against Latinos in Arizona.
*LUCIANO VALENCIA	c/o Mexican American Legal Defense and Educational Fund 110 Broadway, Suite 300 San Antonio, TX 78205  <i>Attorneys of record</i>
*LYDIA CAMARILLO	Ms. Camarillo will testify regarding the efforts of SVREP to register voters in Arizona

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	<i>Attorneys of record</i>
*ANTONIO GONZALEZ (Southwest Voter Registration Education Project)	Mr. Gonzalez will testify regarding the efforts of SVREP to register voters in Arizona
*LUIS IBARRA (Friendly House)	Mr. Ibarra will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.
*EDMUNDO HIDALGO (Chicanos Por La Causa, Inc.)	Mr. Hidalgo will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.
*PATRICIA BORUNDA Chicanos Por La Causa, Inc.	Ms. Borunda will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.
*CARLOS GALINDO ELVIRA Valle del Sol	Mr. Galindo Elvira will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.
*HECTOR YTURRALDE Arizona Hispanic Community Forum	Mr. Yturralde will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.
*MONICA SANCHAFFER ACORN	Ms. Sanchafer will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on her organization's effort to increase Latino registration and voting.
*MICHAEL SLATER Project Vote	Mr. Slater will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.
**ARN PEARSON Common Cause	Mr. Pearson will testify regarding the impact of Proposition 200's voter identification and documentary proof of citizenship provisions on his organization's effort to increase Latino registration and voting.
*JAN BREWER Arizona Secretary of State	Ms. Brewer will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
*CHRISTOPHER J. ROADS Pima County	Mr. Roads will testify regarding the implementation and impact of Proposition 200's voter identification and

1	Chief Deputy Recorder/Registrar of Voters	documentary proof of citizenship provisions.
2	*SUZIE SAINZ Santa Cruz County Recorder	Ms. Sainz will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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4	*SUSAN MARLER Yuma County Recorder	Ms. Marler will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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6	*TAMMY PATRICK Federal Compliance Officer Maricopa County Elections	Ms. Patrick will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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8	*STEVE KIZER Elections Director Apache County Elections	Mr. Kizer will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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11	*VIVIAN JUAN-SANDERS Chairperson Tohono O'odham Nation	Ms. Juan-Sanders will testify regarding documentary proof of citizenship held by members of the Tohono O'odham Nation
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13	*THOMAS SCHELLING Cochise County Election Director	Mr. Schelling will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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15	*DIXIE MUNDY Gila County Election Director	Ms. Mundy will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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17	*JUDY DICKERSON Graham County Election Director	Ms. Dickerson will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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19	*YVONNE PEARSON Greenlee County Election Director	Ms. Pearson will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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21	*DONNA J. HALE La Paz County Election Director	Ms. Hale will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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23	*HELEN PURCELL Maricopa County Recorder	Ms. Purcell will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
24		
25	*ALLEN TEMPERT Mohave County Election Director	Mr. Tempert will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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1	*BRAD R. NELSON Pima County Election Director	Mr. Nelson will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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3	*LYNN A. CONSTABILE Yavapai County Election Director	Ms. Constabile will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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5	*MELINDA MEEK Santa Cruz County Election Director	Ms. Meek will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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8	*ALLAN BYRON SWIFT	Mr. Swift will testify regarding the development of the National Voter Registration Act of 1993 as the Chairman of the Subcommittee on Elections of the Committee on House Administration from 1985 through 1994.
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11	*THOMAS WILKEY, EAC Executive Director	Mr. Wilkey will testify regarding communication between the EAC and the Arizona Secretary of State regarding implementation of Proposition 200's voter identification and documentary proof of citizenship provisions.
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14	*CAESAR RAMIREZ Santa Cruz County Treasurer	Mr. Ramirez will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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16	*ROSS JACOBS Yavapai County Treasurer	Mr. Jacobs will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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18	*MANNY HERNANDEZ Navajo County Treasurer	Mr. Hernandez will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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21	*DOLORES DOOLITTLE Pinal County Treasurer	Ms. Doolittle will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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23	*BETH FORD Pima County Treasurer	Ms. Ford will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
24		
25	*LEE FABRIZIO Mohave County Treasurer	L. Fabrizio will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
26		
	*BONNY K. LYNN	Ms. Lynn will testify regarding the implementation and

1	Coconino County Treasurer	impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
2	*ELLEN SOLPER La Paz County Treasurer	Ms. Solper will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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4	*MARSHA BONHAM Cochise County Treasurer	Ms. Bonham will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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6	*KATHERINE ARVISIO Apache County Treasurer	Ms. Arviso will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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8	*PATRICIA HERNANDEZ Greenlee County Treasurer	Ms. Hernandez will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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10	*DEBORA SAVAGE Gila County Treasurer	Ms. Savage will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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12	*JEAN REYNOLDS Graham County Treasurer	Ms. Reynolds will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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14	*KAREN S. FRITZ Yuma County Treasurer	Ms. Fritz will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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16	*CHARLES HOSKINS Maricopa County Treasurer	Mr. Hoskins will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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18	*CHRISTINE RHODES Cochise County Recorder	Ms. Rhodes will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
19		
20	*CANDACE D. OWENS Coconino County Recorder	Ms. Owens will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
21		
22	*LINDA HAUGHT ORTEGA Gila County Recorder	Ms. Ortega will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
23		
24	*WENDY JOHN Graham County Recorder	Ms. John will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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26	*BERTA MANUZ Greenlee County Recorder	Ms. Manuz will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
	*SHELLY BAKER	Ms. Baker will testify regarding the implementation and

1	La Paz County Recorder	impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
2	*JOAN MCCALL Mohave County Recorder	Ms. McCall will testify regarding the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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4	*JEFFEREY ZAX	Dr. Zax will testify regarding his critique of Plaintiffs' expert reports in this case and his own analysis related to the implementation and impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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7	*RAUL GRIJALVA United States Congressman	Representative Grijalva will testify regarding Section 2 Senate Factors and the impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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9	*TIO TACHIAS	Mr. Tachias will testify regarding the presence of Section 2 Senate Factors in Arizona and the impact of Proposition 200's voter identification and documentary proof of citizenship provisions.
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12	*SILVIA LUNA	Ms. Luna will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
13	*HERTA WEBER	Ms. Weber will testify regarding her experience trying to register to vote in Arizona
14	*BARBARA NIELSEN	Ms. Nielsen will testify regarding her experience trying to register to vote in Arizona
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16	*CHERYL GENTRY	Ms. Gentry will testify regarding her experience trying to register to in Arizona
17	*MARTHA CALAWAY	Ms. Calaway will testify regarding her experience trying to register to vote in Arizona
18	*GLENDA GONZALEZ	Ms. Gonzalez will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
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20	*CECILIA SERRANO	Ms. Serrano will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
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22	*MYRIAM ALLEN	Ms. Allen will testify regarding her experience trying to register to vote in Arizona
23	*LUZ MACKDOLLY WIERZBINSKI	Ms. Wierzbinski will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
24		
25	*CECIL A. DAVIS	Mr. Davis will testify regarding his experience trying to register to vote in Arizona
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1	*MARGOT A. ALLEN	Ms. Allen Mr. will testify regarding her experience trying to register to vote in Arizona
2	*LILY M. MEIJER	Ms. Meijer will testify regarding her experience trying to register to vote in Arizona
3	*WILLIAM P. FITZPATRICK	Mr. Fitzpatrick will testify regarding his experience trying to register to vote in Arizona
4	*SUSAN RUFRANO	Ms. Rufrano will testify regarding her experience trying to register to vote in Arizona
5	*ELVA QUINTERO	Ms. Quintero will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
6	*MARTHA HIGUERA	Ms. Higuera will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
7	*BELINDA SALDANA	Ms. Saldana will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
8	*LOURDES SANCHEZ	Ms. Sanchez will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
9	*DARNELL LAMONT STALLWORTH	Mr. Stallworth will testify regarding his experience trying to register to vote in Arizona
10	*ATAUL A. MANNAN	Mr. Mannan will testify regarding his experience trying to register to vote in Arizona
11	*FRANCES MARGARET GUNN	Ms. Gunn will testify regarding her experience trying to register to vote in Arizona
12	*AMY MARIE SMITH	Ms. Smith will testify regarding her experience trying to register to vote in Arizona
13	*PAULA CONTRERAS	Ms. Contreras will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
14	*ELIZABETH SATOW	Ms. Satow will testify regarding her experience trying to register to vote in Arizona
15	*REYNA VALENCIA	Ms. Valencia will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
16	*ANTONIO M. KILSTROM	Mr. Kilstrom will testify regarding his experience trying to register to vote in Arizona
17	*KAREN HOFFMAN	Ms. Hoffman will testify regarding her experience trying to register to vote in Arizona
18	*S. TODD ROSS	Mr. Ross will testify regarding his experience trying to register to vote in Arizona
19	*MAURICE J. EVANS	Mr. Evans will testify regarding his experience trying to

1		register to vote in Arizona
2	*JOCELYN MCCARTHY	Ms. McCarthy will testify regarding her experience trying to register to vote in Arizona
3	*NICOLE NATALE	Ms. Natale will testify regarding her experience trying to register to vote in Arizona
4	*RASHEEDAH HAMEED	Mr. Hameed will testify regarding his experience trying to register to vote in Arizona
5	*ELYDA JIMENEZ	Ms. Jimenez will testify regarding her experience trying to register to vote and may testify regarding discrimination against Latinos in Arizona
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7	*AMY CROCKETT	Ms. Crockett will testify regarding her experience trying to register to vote in Arizona
8	*LAURA HOLOCHWORST	Ms. Holochworst will testify regarding her experience trying to register to vote in Arizona
9		
10	*DOROTHY TERRAZAS	Ms. Terrazas will testify regarding her experience with voter identification
11	*ELIZABETH L. FAUSETT	Ms. Fausett will testify regarding her experience with voter identification
12	*STEVE FULTON	Mr. Fulton will testify regarding his experience with voter identification
13	*DONNA FULTON	Ms. Fulton will testify regarding her experience with voter identification
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15	*BRENDA ROGERS	Ms. Rogers will testify regarding her experience with voter identification
16	*DIERDRE BELLE- OUDRY	Ms. Belle-Oudry will testify regarding her experience with voter identification
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18	*MERCEDES WILLIAMS	Ms. Williams will testify regarding her experience with voter identification
19	*ROBIN ELIZABETH GROTJAM	Ms. Grotjam will testify regarding her experience with voter identification
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21	*AARON COLEMAN	Mr. Coleman will testify regarding her experience with voter identification
22	*MARLENE BIGMAN	Ms. Bigman will testify regarding her experience with voter identification
23	*LOIS TAKESIAN	Ms. Takesian will testify regarding her experience with voter identification
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25	*ALAN SPIVEY	Mr. Spivey will testify regarding his experience with voter identification
26	*BARBARA BEESE	Ms. Beese will testify regarding her experience with

1		voter identification
2	*EDWARD SAUCEDA	Mr. Saucedo will testify regarding his experience with voter identification
3	*SARA DETHLOFF	Ms. Dethloff will testify regarding her experience with voter identification
4	*STEVE MORA	Mr. Mora will testify regarding his experience with voter identification
5	*ERIN BRADLEY	Ms. Bradley will testify regarding her experience with voter identification
6	*IRENE MURRIETA	Ms. Murrieta will testify regarding her experience with voter identification
7	*KRIS SORGE	Ms. Sorge will testify regarding her experience with voter identification
8	*RICHARD MCQUEEN	Mr. McQueen will testify regarding his experience with voter identification
9	*MARGUERITE HENDRIE	Ms. Hendrie will testify regarding her experience with voter identification
10	*CALEB IAN LA PORTE	Mr. La Porte will testify regarding her experience with voter identification
11	*KAREN RENE LEWSADER	Ms. Lewsader will testify regarding her experience with voter identification
12	*ANN MICHELLE FLETCHALL	Ms. Fletchall will testify regarding her experience with voter identification
13	*SYLVINA COTTO	Ms. Cotto will testify regarding her experience with voter identification
14	*KATHY MCKEE	Ms. McKee will testify regarding the effort to enact Proposition 200, the role of her organization in the effort to pass Proposition 200 and the intent of the statute
15	*STATE REP. RUSSELL PEARCE	Representative Pearce will testify regarding the effort to enact Proposition 200 and the intent of the statute
16	*J.T. READY	Mr. Ready will testify regarding the effort to enact Proposition 200 and the intent of the statute
17	*GLENN SPENCER	Mr. Spencer will testify regarding the effort to enact Proposition 200 and the intent of the statute
18	*VIRGINIA ABERNETHY	Ms. Abernethy will testify regarding the effort to enact Proposition 200 and the intent of the statute
19	*RUSS DOVE	Mr. Dove will testify regarding the effort to enact Proposition 200 and the intent of the statute
20	*DOUG FLOWERS	Mr. Flowers will testify regarding the effort to enact Proposition 200 and the intent of the statute
21	*IRIS LYNCH	Ms. Lynch will testify regarding the effort to enact Proposition 200 and the intent of the statute
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1	*RANDY PULLEN	Mr. Pullen will testify regarding the effort to enact Proposition 200 and the intent of the statute
2	*RUSTY CHILDRESS	Mr. Childress will testify regarding the effort to enact Proposition 200 and the intent of the statute

4                   **ITCA Plaintiffs’ Witnesses:**

5                   a.       The ITCA Plaintiffs shall call the following witnesses at trial:

6                               i.       Linda Brown, Executive Director of the Arizona  
7 Advocacy Network (“AzAN”). Ms. Brown will testify about AzAN’s efforts to  
8 register voters and ensure that voters successfully cast a ballot. In addition, she will  
9 testify concerning the problems related to the Polling ID requirement that she has  
10 observed at polling places in 2006 and 2007.

11                               ii.     Steve Gallardo, Representative, Arizona House of  
12 Representatives and Member, Phoenix Union High School District Governing Board.  
13 Rep. Gallardo will testify concerning his experience as both an election official and  
14 as a candidate and elected official. Specifically, he will testify that the “satisfactory  
15 evidence of citizenship” and Polling ID requirements are harder to meet for Hispanic  
16 citizens, who are less likely to possess the necessary documents and are less likely to  
17 have access to means of transportation or mass communication (such as telephones or  
18 the Internet) that would assist them in obtaining these documents in order to satisfy  
19 the requirements of Proposition 200. In addition, Rep. Gallardo will testify about  
20 how Proposition 200 puts candidates with largely Hispanic supporters at a clear  
21 disadvantage.

22                               iii.    Shirley Preiss. Ms. Preiss will testify concerning her  
23 inability to register to vote in Arizona, and the reasons therefor.

24                   b.       The ITCA Plaintiffs may call each of the following witnesses at  
25 trial by deposition testimony, or offer their testimony from the August 30-31, 2006  
26 and February 8, 2007 Preliminary Injunction Hearings:

                              i.       Jasper Altaha

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- ii. Kelly Dastrup
- iii. Laura Dean-Lytle
- iv. Cindy Gage
- v. Leonard Gorman
- vi. Patty Hansen
- vii. Gilberto Hoyos
- viii. LeNora Johnson
- ix. Laurette Justman
- x. Joseph Kanefield
- xi. Agnes Laughter
- xii. John Lewis
- xiii. Krysty Marin
- xiv. Karen Osborne
- xv. Candace Owens
- xvi. Penny Pew
- xvii. F. Ann Rodriguez
- xviii. Dr. Bonnie Saunders
- xix. R. Anthony Sissons
- xx. Sue Stallworth

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xxi. Craig Stender

xxii. Ana Wayman Trujillo

xxiii. Anne Yanofsky

c. Witnesses the ITCA Plaintiffs are unlikely to call at trial:

i. Donna Collins

ii. Phil Harrison

iii. Jack Jackson, Sr.

iv. Royce Jenkins

v. Travis Lane

vi. Dr. Tommy Lewis

vii. Quannee Oosahwe

viii. Michael Quinn

ix. Gerri Ratliff

x. Karen Shupla

xi. All custodians of records, if necessary.

**State Defendant Witnesses:**

Witnesses who shall be called:

1. Joseph Kanefield. Mr. Kanefield will testify to voter outreach and education efforts with regard to the implementation of the Arizona Taxpayer and Citizen Protection Act, which was adopted by Arizona voters in November 2004, by the Secretary of State's Office; the policies and procedures of the Secretary of State's

1 Office; the state election process; and procedures for implementing the voter  
2 identification and proof of citizenship requirements of Arizona law.

3 2. Karen Osborne. Ms. Osborne will testify to procedures for implementing the  
4 voter identification and proof of citizenship requirements of Arizona law; efforts to  
5 increase public awareness regarding voter identification and proof of citizenship for  
6 registration requirements under Arizona law; the conduct of elections held since the  
7 implementation of the Arizona Taxpayer and Citizen Protection Act, which was  
8 adopted by Arizona voters in November 2004; the conduct of voter registration and  
9 voter registration records; the availability of language assistance in connection with  
elections.

10 3. Dr. Jeffrey Zax. See section regarding expert testimony below.

11 Witnesses who may be called:

12 1. Ana Wayman-Trujillo. Ms. Wayman-Trujillo may testify to Yuma County  
13 procedures for implementing the voter identification and proof of citizenship  
14 requirements of Arizona law; efforts to increase public awareness regarding voter  
15 identification and proof of citizenship for registration requirements under Arizona  
16 law; the conduct of elections held since the implementation of the Arizona Taxpayer  
17 and Citizen Protection Act, which was adopted by Arizona voters in November 2004;  
18 the conduct of voter registration and voter registration records; and the availability of  
language assistance in connection with elections.

19 Witnesses who are unlikely to be called:

- 20 1. Jasper Altaha
- 21 2. Kelly Dastrup
- 22 3. Laura Dean-Lytle
- 23 4. Cindy Gage
- 24 5. Donna Collins
- 25 6. Anne Yanofsky
- 26 7. Krysty Marin

- 1           8.     F. Ann Rodriguez
- 2           9.     R. Anthony Sissons
- 3           10.    Sue Stallworth
- 4           11.    Craig Stender
- 5           12.    Penny Pew
- 6           13.    Gilberto Hoyos
- 7           14.    LeNora Johnson
- 8           15.    Laurette Justman

9           **L.     EXPERTS**

10          **For Gonzalez Plaintiffs:**

11           1.    **Dr. Richard Engstrom** is currently a Visiting Research Professor of  
12 Political Science and Visiting Research Fellow at the Center for the Study of Race,  
13 Ethnicity, and Gender in the Social Sciences at Duke University. From August of  
14 2006 through December 2007 he was employed as a consultant at the Center for Civil  
15 Rights at the School of Law, University of North Carolina, Chapel Hill. He is a  
16 former Research Professor of Political Science and Endowed Professor of Africana  
17 Studies at the University of New Orleans, where he was employed from August 1971  
18 to May 2006.

19           Dr. Engstrom has done extensive research into the relationship between  
20 election systems and the ability of minority voters to participate fully in the political  
21 process and to elect representatives of their choice. The results of his research on this  
22 topic have been published in the *American Political Science Review*, *Journal of*  
23 *Politics*, *Western Political Quarterly*, *Legislative Studies Quarterly*, *Social Science*  
24 *Quarterly*, *Journal of Law and Politics*, *Electoral Studies*, *Representation*, and other  
25 journals and books. Three articles authored or co-authored by Dr. Engstrom were  
26 cited with approval in *Thornburg v. Gingles*, 478 U.S. 30, at 46 n.11, 49 n.15, 53  
n.20, 55, and 71 (1986), the leading Supreme Court decision interpreting amended  
section 2 of the Voting Rights Act.

1 Dr. Engstrom will testify regarding the existence of racially polarized voting  
2 and voter behavior, including voter turnout, in Arizona.

3 2. **Dr. Louis Lanier** is a Senior Economist at Econ One Research, Inc., an  
4 economic consulting firm in Washington, D.C. He possesses a Ph.D. in Applied  
5 Economics from Clemson University. His work at Econ One involves litigation  
6 consulting and policy analysis. He has worked on several class action cases  
7 involving claims of employment discrimination and unfair labor practices, while also  
8 providing assistance in class action antitrust cases and other cases involving breaches  
9 of contracts. His policy analysis work often requires complex statistical analysis of  
10 large electronic datasets, including various datasets provided by the Census Bureau.

11 Dr. Lanier will testify regarding his analysis of the documents produced by  
12 Defendants showing the voter registration applications that were rejected because of  
13 Proposition 200 and the conditional provisional ballots that were not counted because  
14 of the voter identification provisions of Proposition 200. Dr. Lanier will further  
15 testify on the impact of Proposition 200 based on his analysis of demographic and  
16 voter turnout data.

17 3. **Dr. Rodolfo Espino** is an Assistant Professor of Political Science at  
18 Arizona State University. He received his M.A. and Ph.D. from the University of  
19 Wisconsin (Madison, WI). At the University of Wisconsin, he held a Ford  
20 Foundation fellowship and taught courses within the Department of Political Science  
21 and the LaFollette School for Public Affairs. Before arriving at Arizona State  
22 University, Dr. Espino held a one-year appointment in the Department of Political  
23 Science at Texas A&M University. His primary research and teaching interests are  
24 in the fields of political behavior, legislative institutions, and political methodology.  
25 His articles have been published in such journals as Social Science Quarterly,  
26 Journalism and Mass Communication Quarterly, and Political Analysis.

1 Dr. Espino will testify regarding his analysis of voter registration following  
2 implementation of the documentary proof of citizenship requirement of Proposition  
3 200.

4 **4. Dr. Jorge Chapa**

5 Dr. Chapa is Director of the Center for Democracy in a Multiracial Society  
6 and Professor of Sociology and Latina/o Studies at the University of Illinois at  
7 Urbana-Champaign. Dr. Chapa is also: former Professor & Founding Director of the  
8 Latino Studies Program at Indiana University, Bloomington; former Professor at the  
9 University of Texas Lyndon B. Johnson School of Public Affairs; and former  
10 Associate Dean of Graduate Studies & Director of the Graduate Opportunity  
11 Program at the University of Texas at Austin. Dr. Chapa has published extensively  
12 on topics related to the demographic characteristics of Latinos in the United States.

13 Dr. Chapa will testify regarding the demographic characteristics of Latinos  
14 and Non-Latinos in Arizona.

15 **5. Dr. F. Arturo Rosales**

16 Dr. Rosales is professor of history at Arizona State University (ASU). He  
17 previously served as assistant professor at the University of Houston. He has  
18 published extensively on the topic of Mexican and Mexican American history in the  
19 United States, including seven books. His book *Chicano! The History of the*  
20 *Mexican American Civil Rights Movement* (Houston: Arte Público Press, 1996), a  
21 companion text to a Public Broadcasting System television series of the same name,  
22 was named in 1997 an Outstanding Book on Human Rights in North America by the  
23 Gustavus Myers Foundation. His publication record also includes 30 journal articles  
24 and essays, 20 book reviews, 5 book chapters and over 20 entries in history  
25 encyclopedias and dictionaries.

26 Dr. Rosales will testify regarding discrimination against Latinos in Arizona.

1 **Defendants' Experts:**

2 Defendants expect to present the testimony of Dr. Jeffrey Zax. Dr. Zax is a  
3 Professor of Economics and the Associate Chair of the Department of Economics at  
4 the University of Colorado at Boulder. He received his Ph.D. degree in Economics  
5 from Harvard University in 1984, and received his B.A. degree in Economics from  
6 Harvard University in 1976. Dr. Zax teaches undergraduate courses in inequality and  
7 discrimination, statistics and econometrics. He also teaches doctoral seminars in  
8 labor economics and local public finance. Dr. Zax' published articles in peer-  
9 reviewed professional journals include many that address issues of discrimination  
10 and of minority representation. Dr. Zax is an associate editor of the China Economic  
11 Review and has served as a referee for over 50 journals in many different fields in the  
12 social sciences, as well as for the National Science Foundation.

13 Dr. Zax is expected to testify to the opinions disclosed in his written reports in  
14 these consolidated cases and in his deposition. Specifically, Dr. Zax is expected to  
15 testify about the following: There is no evidence presented by the opinions of  
16 plaintiff experts Louis Lanier, Rodolfo Espino, Richard Engstrom, and Jorge Chapa,  
17 of any disparate impact on Latino voter registration in Arizona after the  
18 implementation of Prop 200. There is no evidence of any overall reduction in voter  
19 registrations (both Latino and non-Latino) since the implementation of Prop 200.

20 Plaintiff expert Dr. Lanier's disclosed conclusions in this litigation are not supported  
21 by Dr. Lanier's data. Dr. Lanier's regression analysis is based upon misspecified  
22 equations. In addition, Dr. Lanier's claims of statistical significance are unfounded.

23 Plaintiff expert Dr. Espino's disclosed conclusions in this litigation are not supported  
24 by his data. In addition, Dr. Espino's expert reports are fraught with methodological  
25 errors and invalid conclusions. Plaintiff expert Dr. Chapa's opinions regarding  
26 discrimination against Latinos in Arizona are unsupported by his data. Plaintiff Dr.  
Engstrom's analysis does not support any conclusion that Arizona overall  
experiences any racially polarized voting.

1 There are no stipulations relating to the number or nature of experts to be  
2 called by the parties.

3 **M. EXHIBITS**

4 Defendants' exhibit list is attached as Exhibit B to this joint proposed pretrial  
5 order.

6 Gonzalez Plaintiffs' exhibit list is attached as Exhibit C

7 ITCA Plaintiffs' exhibit list is attached as Exhibit D.

8 **N. MOTIONS IN LIMINE AND REQUESTED EVIDENTIARY**  
9 **RULINGS**

10 Gonzalez Plaintiffs will file today one motion in limine to exclude exhibits  
11 and testimony related to four exhibits listed by County Defendants which purport to  
12 show non-citizen voter registration.

13 Defendants expect to file motions in limine regarding:

- 14 1. The testimony of plaintiff witnesses untimely disclosed by plaintiffs.
- 15 2. The testimony of plaintiff expert opinions disclosed after the deadline  
16 for such expert disclosures.
- 17 3. Documents purporting to be "ACORN survey forms" produced long  
18 after the deadline. In addition to being untimely, such documents constitute  
19 hearsay and should not be admitted for the truth of the matter asserted therein.
- 20 4. The testimony, including deposition testimony, of witnesses from the  
21 U.S.C.I.S., which witnesses were deposed long after the close of fact  
22 discovery in this matter.
- 23 5. The deposition testimony of Arturo Rosales and Agnes Laughter.
- 24 6. The testimony regarding pending criminal investigations.

25 **O. PROBABLE LENGTH OF TRIAL**

26 Trial in this case has been set for six days. Gonzalez Plaintiffs requested by  
Motion to extend the number of days for the presentation of their case to ten days.  
*See* Dkt. Entry No. 782. The Motion was denied. *See* Docket No. 784.

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**P. TRIAL DATE**

The trial is scheduled for July 1, 2, 3, 8, 9, and 10, 2008.

**Q. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Shall be filed and served by each party in accordance with the instructions set forth in this court’s Rule 16 Scheduling Order.

**R. MISCELLANEOUS**

Due to the large number of potential witnesses and exhibits, Plaintiffs request that the Court order that (1) the evidence introduced at the preliminary injunction hearings can be cited and need not be reintroduced at trial, (2) the parties’ expert reports shall be admissible without the live testimony of the expert himself and (3) deposition testimony shall be considered by the Court without the necessity of having it read into the record during the trial.

**S. MODIFICATION OF ORDER**

The court may, in order to prevent manifest injustice or for good cause shown, at the trial of the action or prior thereto upon application of counsel for either party, may in good faith, or upon the motion of the court, modify the **Final Pretrial Order** upon such conditions as the court may deem just and proper.

APPROVED AS TO FORM AND CONTENT

s/ Karen J. Hartman-Tellez w/authority  
Nina Perales  
Attorney for Gonzalez Plaintiffs

s/Karen J. Hartman-Tellez w/authority  
Carrie Brennan  
Attorney for State Defendants

s/ Karen J. Hartman-Tellez  
Karen J. Hartman-Tellez  
Attorney for ITCA Plaintiffs

s/ Karen J. Hartman-Tellez w/authority  
Colleen Connor  
Attorney for County Defendants

1 THIS JOINT PRETRIAL ORDER IS HEREBY APPROVED ON THIS \_\_\_\_ DAY  
2 OF \_\_\_\_\_, 2008.

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5 \_\_\_\_\_  
6 Roslyn O. Silver  
United States District Judge

7 Copies to all counsel of record  
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