

1 involvement and empowering the communities we serve through their vote. [Exhibit 547
2 (Sandschafer Decl. at 2)].

3 **1098.** Michael Slater is employed as the Deputy Director for Project Vote.
4 [Exhibit 549 (Declaration of Michael Slater (“Slater Decl. at”) at 1)]

5 **1099.** Project Vote is a nonpartisan, nonprofit organization incorporated in
6 Louisiana with an office in Phoenix. Project Vote in Arizona has helped increase voter
7 registration by registering voters in the community and collaborating with other Arizona-
8 based community groups since 1982. Project Vote also provides professional training,
9 management, evaluation, and technical services for voter engagement and voter
10 participation activities in low and moderate-income communities in Arizona. [Exhibit
11 549 (Slater Decl. at 1)]

12 **1100.** As a result of Proposition 200, Project Vote has been forced to
13 drastically cut-back on its voter registration activities in Arizona and has had to divert
14 substantial resources in order to comply with the new registration and voting
15 requirements. [Exhibit 549 (Slater Decl. at 1)]

16 **1101.** Project Vote has had to spend valuable time and resources educating
17 the community about the requirements of Proposition 200. In specific, they have spent
18 over \$6000.00 on travel, project costs, and reimbursements. [Exhibit 549 (Slater Decl. at
19 1)]

20 **D. Chicanos Por La Causa**

21 **1102.** Sal Martinez is the Director of Human Resources for Chicanos Por
22 La Causa (“CPLC”). [Exhibit 541 (Declaration of Sal Martinez (“Martinez Decl. at”) ¶
23 1)]

24 **1103.** CPLC is a statewide community development corporation in Arizona
25 committed to building stronger, healthier communities as a leading advocate, coalition
26 builder, and direct service provider. CPLC promotes positive change and self-sufficiency

1 to enhance the quality of life for the benefit of those it serves. [Exhibit 541 (Martinez
2 Decl. at ¶ 2)]

3 **1104.** CPLC provides direct services in the areas of economic development,
4 education, housing, and other areas. In order to fulfill its organizational goals, CPLC
5 encourages its daily clientele to become involved in civic life. As a result, CPLC
6 attempts to register its daily clientele at its different direct service sites. In addition,
7 CPLC conducts voter registration out in the community. [Exhibit 541 (Martinez Decl. at
8 ¶ 3)]

9 **1105.** CPLC has also expended funds, time and human resources to provide
10 the community with accurate information regarding the new voter and voter registration
11 requirements imposed by Proposition 200. CPLC initiated a state-wide campaign to
12 register new voters and counteract the new voter registration requirements of Proposition
13 200. [Exhibit 541 (Martinez Decl. at ¶ 4)]

14 **1106.** In that effort CPLC committed staff to create a Voter Registration
15 Project with emphasis on first time voters and those new to Maricopa County. [Exhibit
16 541 (Martinez Decl. at ¶ 4)]

17 **1107.** CPLC has a staff person who is solely dedicated to voter education
18 and voter registration efforts. Through the program called “La Causa Advocacy” the staff
19 person trains their staff to register clientele, coordinates voter registration efforts in the
20 community, and is charged with reviewing and submitting all the voter registration
21 applications obtained through our agency. [Exhibit 541 (Martinez Decl. at ¶ 5)]

22 **1108.** Because of Proposition 200, CPLC’s voter registration efforts have
23 suffered. [Exhibit 541 (Martinez Decl. at ¶ 6)]

24 **1109.** Latinos who attempt to register to vote in community-based
25 registration campaigns are unlikely to have proof of citizenship with them. [Exhibit 541
26 (Martinez Decl. at ¶ 7)]

1 **1110.** CPLC has found that Latinos often feel dejected and apathetic
2 because they truly want to register but do not possess the proper documents required by
3 Proposition 200. [Exhibit 541 (Martinez Decl. at ¶ 8)]

4 **1111.** Because Proposition 200 has effectively obstructed an individual's
5 right to vote and participate in civic engagement, CPLC's mission cannot fully be
6 accomplished. [Exhibit 541 (Martinez Decl. at ¶ 9)]

7 **E. Valle Del Sol**

8 **1112.** Luz Sarmina is the President & CEO of Valle del Sol. [Exhibit 548
9 (Declaration of Luz Sarmina ("Sarmina Decl. at"), May 30, 2008 at 2)].

10 **1113.** Luz Sarmina has served as President & CEO of Valle del Sol since
11 August 1, 1995. During Ms. Sarmina's employment with Valle del Sol, she was
12 responsible for supervising the Vice President of Philanthropic and Community
13 Relations, who had oversight on the voter registration, education and voter turnout efforts
14 of Valle del Sol in conjunction with Democracia USA. [Exhibit 548 (Sarmina Decl. at
15 2)].

16 **1114.** Plaintiff Valle del Sol is a non-profit and community based
17 organization that also operates as a non-partisan organization committed to the delivery
18 of behavioral health, social services and leadership development. Voter registration, voter
19 education and voter participation activities are activities that operate under the Center for
20 Culture & Understanding to promote civic engagement. Since its founding in 1970, Valle
21 del Sol has conducted several voter registration campaigns in Arizona. Valle del Sol has
22 conducted its voter registration activities at community-based sites such as school
23 campuses, leadership institutes, all agency meetings, targeted neighborhoods, malls and
24 fairs. Valle del Sol stated that because the effects of Proposition 200 has limited the
25 number of persons that Valle del Sol can register to vote and impaired the ability of Valle
26

1 del Sol to conduct voter registration and turnout efforts, they have been injured by
2 Proposition 200. [Exhibit 548 (Sarmina Decl. at 2) and Exhibits 469-471]

3 **1115.** Valle del Sol is one of Arizona's largest non-profit organizations
4 focused on services to both the Latino community and community-at-large and has
5 registered voters through the years. [Exhibit 548 (Sarmina Decl. at 3) and Exhibit 469]

6 **1116.** Valle del Sol has conducted non-partisan voter registration and voter
7 mobilization campaigns in a similar fashion across Maricopa County. [Exhibit 548
8 (Sarmina Decl. at 3) and Exhibits 470-471]

9 **1117.** One of the ways in which Valle del Sol conducted voter registration
10 and mobilization campaigns is selecting a local community or neighborhood and meeting
11 with leaders and neighbors and asking them to join our efforts in educating their fellow
12 neighbors. From this group of neighbors and volunteers, Valle del Sol organized precinct
13 walks to provide voter information and registration. Depending on the calendar,
14 volunteers may have also provided early ballot request forms. [Exhibit 548 (Sarmina
15 Decl. at 3) and Exhibits 470-477]

16 **1118.** When Valle del Sol did voter registration drives, Valle del Sol
17 gathered volunteers for precinct walks and provided them a script, walking list, and voter
18 registration forms. Volunteers were additionally provided early ballot forms to make the
19 door-to-door encounter easier for individuals already registered to vote. [Exhibit 548
20 (Sarmina Decl. at 3) and Exhibits 470-472, 474, 477]

21 **1119.** Valle del Sol's campaigns have relied on voter registration forms
22 promulgated by the Maricopa County Recorder's Office as well as the early ballot forms
23 and federal mail voter registration application. [Exhibit 548 (Sarmina Decl. at 3)].

24 **1120.** Valle del Sol stated that in order to counteract the effects of
25 Proposition 200 they had to expend staff hours on meetings, trainings, strategy sessions,
26 and on the ground outreach to the community. Approximate resources depleted on voter

1 education and registration efforts are displayed in the following increases in time and
2 salaries, President and CEO, 24 hours at \$1,800, Vice President of Philanthropic &
3 Community Relations 64 hours at \$1,400, Vice President of Corporate
4 Relations/Leadership at 64 hours at \$1,400, Manger for Leadership Programs 64 hours at
5 \$1,152, Community Power Manager 64 hours at \$1,280, and Volunteer Program
6 Coordinator 64 hours at \$648. In addition, resources were also spent on supplies such as
7 \$100 on flyers, \$150 on printing, and \$45 dollars on postage. Indirect costs total at
8 \$3,072, thus bringing the total cost at \$11,047. [Exhibit 548 (Sarmina Decl. at 3) and
9 Exhibits 472, 474, 477-491]

10 **1121.** As a non-profit organization, Valle del Sol, received the assistance of
11 Democracia USA, a national non-profit, non-partisan, organization dedicated to voter
12 registration and education. Democracia USA provided Valle del Sol a Fellow to assist
13 and aid in the area of education and voter registration. With this partnership, Valle del
14 Sol provided space and resources to implement and execute voter education and
15 registration projects. Because Valle del Sol's budget reflects its core services of
16 behavioral health, social services and leadership development, the cost of overhead,
17 occupancy and staff supervision are the only costs the agency incurred. If Valle del Sol
18 determined to expend greater resources on voter registration campaigns, it would affect
19 their ability to conduct our core services in meeting the needs of our consumers. [Exhibit
20 548 (Sarmina Decl. at 4)]

21 **1122.** Valle del Sol stated that Proposition 200's proof of citizenship
22 requirements for voter registration has severely impaired their ability to register voters.
23 Valle del Sol also stated that some individuals, who may be elderly or from minority
24 populations, do not readily carry documents required by Proposition 200 to register to
25 vote on site. [Exhibit 548 (Sarmina Decl. at 4)].
26

1 **1123.** Valle del Sol has also stated Voter registration drives conducted were
2 made more challenging and difficult to successfully register voters for elections. [Exhibit
3 548 (Sarmina Decl. at 4)].

4 **1124.** Because it is more cost effective, Valle del Sol conducted voter
5 registration, in neighborhoods, agency public areas, leadership institutes, and other places
6 where people congregate. It is less cost-effective for Valle del Sol to conduct voter
7 registration in a door to door campaign. Valle del Sol stated that Proposition 200's proof
8 of citizenship requirements will greatly hinder their voter registration efforts by requiring
9 all canvassers to bring along photocopy machines or scanners and printers to places
10 where voters gather, or to bring such a machine door to door in a neighborhood. Valle
11 del Sol does not have the resources to equip canvassers with portable photocopy
12 machines or scanners and printers in order to conduct voter registration campaigns in
13 Arizona. [Exhibit 548 (Sarmina Decl. at 4)].

14 **1125.** In addition, in a time of heightened fear of identity theft, Valle del
15 Sol stated that even if it were able to equip canvassers with photocopy equipment, few
16 voter registration applicants would be willing to allow a canvasser to copy their
17 citizenship documents, such as birth certificates or passports. [Exhibit 548 (Sarmina
18 Decl. at 2)].

19 **1126.** Valle del Sol has stated that because of Proposition 200's proof of
20 citizenship requirements, the only realistic alternative for Valle del Sol is to discontinue
21 its voter registration activities. [Exhibit 548 (Sarmina Decl. at 4)].

22 **F. Arizona Hispanic Community Forum**

23 **1127.** Hector Yturralde is the President of the Arizona Hispanic
24 Community Forum (AHCF). He has served as President for the last three years, and been
25 a member of the organization for the last 13 years. [Exhibit 554B (Declaration of Hector
26 Yturralde ("Yturralde Decl. at") at 2)].

1 **1128.** The AHCF is an advocacy organization that collaborates with other
2 organizations on civil and human rights issues in Arizona. AHCF's mission is to
3 empower Hispanic communities. AHCF works towards active participation with policy-
4 making bodies at all levels of the public and private sectors; they educate, promote and
5 preserve Hispanic history, language, cultures, customs, and contributions; and they work
6 to increase opportunities and improve the quality of life for Hispanics. [Exhibit 554B
7 (Yturralde Decl. at 2)].

8 **1129.** AHCF conducts voter registration drives to fulfill their organizational
9 goals. [Exhibit 554B (Yturralde Decl. at 2)].

10 **1130.** AHCF has regularly conducted voter registration drives since the
11 formation of their organization. AHCF has stated that as estimate their organization has
12 held a registration drive at least five times a year, and during a busy election year as
13 many as ten. [Exhibit 554B (Yturralde Decl. at 2)].

14 **1131.** AHCF conducts voter registration at community events, concerts,
15 Latino oriented events, and naturalization ceremonies. AHCF was scheduled to have a
16 voter registration drive at the July 4, 2008 naturalization ceremony in their community.
17 [Exhibit 554B (Yturralde Decl. at 2)].

18 **1132.** AHCF has stated that their voter registration efforts have greatly
19 suffered because of Proposition 200. Before Proposition 200, AHCF was able to register
20 and submit a number of voter registration applications. Once Proposition 200 took effect,
21 the number of applications submitted by AHCF decreased. AHFC stated that this is
22 because many hopeful voters did not carry the proper identification or documents
23 necessary to successfully complete the voter registration application. [Exhibit 554B
24 (Yturralde Decl. at 2-3)].

25 **1133.** AHCF has stated that it was frustrating for their organization because
26 it became very difficult to register voters. AHCF also stated that they witnessed

1 disillusionment and disappointment by individuals who wanted to register but did not
2 have the proper documents. AHCF stated that they encouraged applicants to submit their
3 information later, but they never knew if it was accomplished. [Exhibit 554B (Yturralde
4 Decl. at 3)].

5 **1134.** AHCF is a small community- based organization that relies on
6 community donations and community volunteers. AHCF’S resources are very limited.
7 Voter registration drives by AHCF only function because of their volunteer support. At
8 some events, AHCF needs as many as seven or eight people. AHCF stated that because
9 of the new requirements imposed on registrants, it is difficult to recruit volunteers
10 because they recognize the difficulty in successfully registering voters. [Exhibit 554B
11 (Yturralde Decl. at 3)].

12 **1135.** AHCF stated that the mission of their organization has been affected
13 because of the new voter registration requirements imposed by Proposition 200. AHCF
14 also stated that their mission of empowering Hispanic communities, working towards
15 active participation with policy-making bodies, and increasing opportunities for
16 Hispanics cannot be accomplished if they cannot continue to successfully register voters.
17 [Exhibit 554B (Yturralde Decl. at 3)].

18 **G. Friendly House**

19 **1136.** Luis Ibarra is employed as the Chief Executive Officer of Friendly
20 House, a plaintiff in this case. [Exhibit 537 (Declaration of Luis Ibarra (“Ibarra Decl. at”
21 at 2)].

22 **1137.** Luis Ibarra has served as the Chief Executive Officer of Friendly
23 House since 1992. During his employment with Friendly House, he has been responsible
24 for supervising the voter registration and voter education efforts of Friendly House.
25 [Exhibit 537 (Ibarra Decl. at 2))]

26

1 **1138.** Friendly House is Arizona’s oldest non-profit organization which
2 focuses on political participation and has registered tens of thousands of voters since its
3 founding. [Exhibit 537 (Ibarra Decl. at 2)].

4 **1139.** Plaintiff Friendly House is a non-profit and non-partisan organization
5 committed to fostering excellence in the community through comprehensive family and
6 human services, educational programs such as adult literacy and English classes,
7 naturalization classes, immigration law workshops, workforce development, home
8 ownership programs, home health care for the elderly and disabled, and voter
9 registration, voter education and civic engagement activities. Since its founding in 1920,
10 Friendly House has incorporated voter registration and political participation efforts into
11 its operations. [Exhibit 537 (Ibarra Decl. at 2)]

12 **1140.** Friendly House conducts its voter registration and voter mobilization
13 primarily in Phoenix, Arizona. [Exhibit 537 (Ibarra Decl. at 2)]

14 **1141.** Friendly House stated that Proposition 200’s proof of citizenship
15 requirements for voter registration has severely impaired their ability to register voters.
16 [Exhibit 537 (Ibarra Decl. at 3)]

17 **1142.** Friendly House stated as a result of Proposition 200 they were forced
18 to explain the voter registration and voter identification requirements to its clients as well
19 as the students in their citizenship and civics classes. These efforts required additional
20 staff and take time away from the delivery of direct services, which can limit the number
21 of individuals served during the course of a day. They also stated that it detracted from
22 class instruction and displaced other information in the lesson plan. Friendly House has
23 also stated that they are injured by Proposition 200 because it has limited the number of
24 persons that they can register to vote and forced them to curtail or forgo some of its
25 activities. [Exhibit 537 (Ibarra Decl. at 3)]

26

1 **1143.** As a non-profit organization, Friendly House raises money from
2 private donors. Friendly House resources are very limited. Friendly House stated that if
3 they are required to expend greater resources on one voter campaign, it impairs their
4 ability to conduct additional voter campaigns and fulfill their mission of improving the
5 participation of Latino and other minority communities across the United States in the
6 democratic process. [Exhibit 537 (Ibarra Decl. at 3)]

7 **H. Common Cause**

8 **1144.** Common Cause engages in voter education efforts as part of its
9 organizational mission. Common Cause stated in an interrogatory that as a result of the
10 voter identification requirements of Proposition 200, they will be forced to divert
11 resources to educate the community about these requirements and will be thwarted from
12 fully realizing its organizational goals. [Interrogatory of Common Cause (“CC”), Nov. 8,
13 2007 at 3 and Exhibit 492].

14 **1145.** Common Cause is a nonprofit, nonpartisan organization established
15 in 1970. Common Cause’s commitment to honest, open and accountable government,
16 and to encouraging citizen participation in democracy are the foundation for the
17 organization’s program agenda, which includes Money and Politics, Voting and
18 Elections, Media and Democracy, and Ethics and Transparency in Government.
19 Common Cause has a respected tradition as an effective citizens’ lobby working to
20 ensure honest, open, accountable and effective government. [CC at 4-5 and Exhibit 492].

21 **I. Agnes Laughter**

22 **1146.** Agnes Laughter is an enrolled member of the Navajo Nation. She is a
23 natural-born citizen of the United States of America. Ms. Laughter is 74 years old and is
24 registered to vote in Arizona. [Exhibit 538 (Declaration of Agnes Laughter (“Laughter
25 Decl. at”), May 08, 2006 at 1)]

26

1 **1147.** Agnes Laughter is a resident of the Navajo Nation. She lives seven
2 miles northeast of the Chilchinbeto Chapter, located in Navajo County on the Navajo
3 Nation Reservation. Ms. Laughter has lived in Chilchinbeto since 1932. [Exhibit 538
4 (Laughter Decl. at 1)]

5 **1148.** Ms. Laughter has voted in county, state, and federal election and
6 intends to continue voting in county, state, and federal elections. [Exhibit 538 (Laughter
7 Decl. at 1)].

8 **1149.** Ms. Laughter does speak Navajo and does not read or write English.

9 **1150.** Ms. Laughter does not possess any form of identification containing
10 her name, address and photograph. [Exhibit 538 (Laughter Decl. at 1)].

11 **1151.** Ms Laughter does not have an Arizona's driver's license or an
12 Arizona non-operators identification card. [Exhibit 538 (Laughter Decl. at 1)].

13 **1152.** Ms. Laughter does not have two forms of identification containing
14 her name and current address that she will use on election day. [Exhibit 538 (Laughter
15 Decl. at 1)].

16 **1153.** Agnes Laughter misplaced her voter registration card. [Exhibit 538
17 (Laughter Decl. at 1)].

18 **1154.** Agnes Laughter lives on the Navajo Reservation and as a result she
19 does not have a property tax statement. [Exhibit 538 (Laughter Decl. at 1)].

20 **1155.** Agnes Laughter does not have any utilities in her name. [Exhibit 538
21 (Laughter Decl. at 1)].

22 **1156.** Agnes Laughter does not have transportation, a vehicle registered in
23 the State of Arizona, or a vehicle insurance card. [Exhibit 538 (Laughter Decl. at 1)].

24 **1157.** Agnes Laughter does not have a tribal identification card with her
25 name and address. [Exhibit 538 (Laughter Decl. at 1)].

26

1 **1158.** Agnes Laughter does have a bank account in her name but refuses to
2 use her personal banking information in order to vote. [Exhibit 538 (Laughter Decl. at
3 1)]

4 **1159.** The nearest Department of Motor Vehicles location from her home is
5 in Chinle, Arizona, which is approximately 50 miles from Chilchinbeto. [Exhibit 538
6 (Laughter Decl. at 1)].

7 **1160.** Agnes Laughter feels that she has certain circumstances that make
8 her obtaining identification for the purpose of voting burdensome and impractical. The
9 only utility her household receives is the water bill. This water bill is issued in her
10 husband's name. [Exhibit 538 (Laughter Decl. at 1)].

11 **1161.** Ms. Laughter was born at home and does not have a birth certificate.
12 Her lack of birth certificate has given Agnes Laughter problems in the past obtaining an
13 Arizona identification card. [Exhibit 538 (Laughter Decl. at 2)].

14 **1162.** Agnes Laughter's only reason for obtaining an Arizona non-operators
15 identification card would be to have an identification card for voting purposes. [Exhibit
16 538 (Laughter Decl. at 2)].

17 **1163.** Agnes Laughter would have to expend funds to travel to the
18 Department of Motor Vehicles in order to obtain an Arizona non-operators identification
19 card. [Exhibit 538 (Laughter Decl. at 2)].

20 **1164.** Agnes Laughter objects to pay a fee for the right to vote. [Exhibit
21 538 (Laughter Decl. at 2)].

22 **1165.** Agnes Laughter believes that the new Arizona voter identification
23 requirements unduly burden her right to participate in county, state, and federal elections.
24 [Exhibit 538 (Laughter Decl. at 2)].

25 **1166.** Agnes Laughter intends on voting in the next scheduled election and
26 is concerned that the election officials will not allow her to vote because she does not

1 have and cannot obtain without substantial inconvenience and expenses the forms an
2 identification which may now be required by Arizona law. [Exhibit 538 (Laughter Decl.
3 at 2)].

4 **1167.** If Agnes Laughter fails to bring proper identification to the polls, she
5 feels that it is improbable that she will return to her designated location with proper
6 identification because she does not have transportation. [Exhibit 538 (Laughter Decl. at
7 2)]

8
9 **XI. PROPOSITION 200 AFFECTS INDIVIDUALS IN THE CONTEXT OF
10 RACIALLY POLARIZED VOTING AND RAPIDLY GROWING LATINO
11 POPULATION IN THE STATE**

12 **A. Racially Polarized Voting – Engstrom and Espino**

13 **1168.** Based on the 2006 population estimates provided by the Bureau of
14 the Census, 29.2 percent of Arizona’s population is Latino, 84.3 percent is non-Latino
15 and White and 5.9 percent is Native American. [Exhibit 555 (Expert Report of Dr.
16 Richard L. Engstrom at 3, January 4, 2008 (“Engstrom Report”))]

17 **1169.** The demographic data used by Dr. Richard L. Engstrom are based on
18 the 2000 Census of Population. [Exhibit 556 (Expert Report of Dr. Richard L. Engstrom
19 at 5, March 28, 2008 (“Second Engstrom Report”))]

20 **1170.** Using three different methodologies, Ecological Regression analysis
21 (ER), Homogeneous precinct analysis (also known as extreme case analysis) (HP), and
22 Ecological Inference Analysis (EI), Dr. Engstrom analyzed the extent to which the
23 candidate preferences of Latino and other voters in Arizona have differed in recent
24 statewide, congressional, and state senate elections in which the voters have been
25 presented with a choice between or among Latino and non-Latino candidates. [Exhibit
26 555 & 556 (Engstrom Report at 3; Second Engstrom Report at 5)]

1171. Dr. Engstrom reported estimates using HP, ER, and EI, rather than
just one method, because none of the procedures is guaranteed to produce estimates

1 closer to the “true values” of the respective group support levels all of the time. [Exhibit
2 557 (Response of Dr. Richard L. Engstrom to Rebuttal Report of Jeffrey S. Zax at 4, May
3 23, 2008 (“Engstrom Response”))]

4 **1172.** According to Dr. Engstrom, ER analysis and HP analysis are
5 methodologies that were approved for the purpose of analyzing the extent to which the
6 candidate preferences of the Latino voters differed from those of the non-Latino
7 (predominantly white) voters in elections by the United States Supreme Court in
8 *Thornburg v. Gingles*, 478 U.S. 30, 52-53 (1986). [Exhibit 556 (Second Engstrom
9 Report at 4)]

10 **1173.** According to Dr. Engstrom, the Supreme Court in *Gingles* noted that
11 the district court in that case had identified ER and HP as “standard in the literature for
12 the analysis of racially polarized voting” and relied on the estimates derived from these
13 procedures to conclude that voting in the North Carolina multi-member legislative
14 districts at issue had been racially polarized. [Exhibit 557 (Engstrom Response at 2)]

15 **1174.** According to Dr. Engstrom, ER is the statistical procedure that relies
16 on all of the precincts in which votes were cast in a particular election. [Exhibit 555 &
17 556 (Engstrom Report at 4; Second Engstrom Report at 4)]

18 **1175.** According to Dr. Engstrom, ER analysis is a method that has been
19 relied upon by other expert witnesses in assessing the extent to which voting has been
20 racially polarized in Arizona in their election analyses and reports for cases concerning
21 the statewide redistricting plans adopted in Arizona following the 2000 census. [Exhibit
22 555 (Engstrom Report at 4)]

23 **1176.** According to Dr. Engstrom, the Supreme Court in *Gingles* did not
24 state that comparable findings of racially polarized voting evidence would be necessary
25 in future similar cases. [Exhibit 558 (Dr. Richard L. Engstrom 2, March 7, 2008
26 (“Engstrom Rebuttal Report”))]

1 **1177.** According to Dr. Engstrom, the Supreme Court in *Gingles* adopted
2 the following definition of “racially polarized voting”: “‘a consistent relationship
3 between [the] race of the voter and the way in which the voter votes,’ ... or to put it
4 differently, where ‘black voters and white voters vote differently.’” The Supreme Court
5 also provided a summary statement concerning the definition: “the legal concept of
6 racially polarized voting, as it relates to claims of vote dilution, refers only to the
7 existence of a correlation between the race of voters and the selection of certain
8 candidates,” citing *Gingles* at 2778. [Exhibit 558 (Engstrom Rebuttal Report 2)]

9 **1178.** According to Dr. Engstrom, the Supreme Court in *Gingles* did not
10 establish a threshold for racially polarized voting. [Exhibit 558 (Engstrom Rebuttal
11 Report 2-3)]

12 **1179.** According to Dr. Engstrom, even if the Supreme Court in *Gingles* *did*
13 establish a threshold for racially polarized voting, the results of his analysis would still be
14 similar. [Exhibit 558 (Engstrom Rebuttal Report 3)]

15 **1180.** According to Dr. Engstrom, ER analysis has been the basis for
16 findings of racially polarized voting in numerous cases since *Gingles*. [Exhibit 558
17 (Engstrom Rebuttal Report 3)]

18 **1181.** According to Dr. Engstrom, ER analysis has been widely employed
19 by expert witnesses testifying about racially polarized voting in the past and present.
20 [Exhibit 558 (Engstrom Rebuttal Report 4)]

21 **1182.** According to Dr. Engstrom, ER analysis, as used in *Gingles*, refers to
22 “double regression.” [Exhibit 557 (Engstrom Response 2)]

23 **1183.** According to Dr. Engstrom, regression is a standard methodology
24 used for numerous purposes by social scientists. [Exhibit 557 (Engstrom Response 2)]

25 **1184.** According to Dr. Engstrom, double regression, which employs data
26 for all of the precincts, combines the results of two regressions, one of which regresses

1 the candidate support measure for a Latino candidate or group of Latino candidates onto
2 the measure of the minority presence in the precincts, and the other of which regresses
3 the support levels for the non-Latino candidate or candidates on the minority presence in
4 the precinct. The first regression provides estimates of both the percentage of the non-
5 Latino VAP and the percentage of the Latino VAP that voted for the Latino candidate or
6 candidates. The other regression provides estimates of the percentage of the non-Latino
7 VAP and Latino VAP voting for the other candidate or candidates. [Exhibit 557
8 (Engstrom Response 2-3)]

9 **1185.** According to Dr. Engstrom, by combining the estimates from each
10 regression, one can derive the estimated percentage of Latinos voting in the election that
11 voted for the Latino candidate or candidates, or the other candidate or candidates, and the
12 percentage of non-Latinos voting in the election that did likewise. [Exhibit 557
13 (Engstrom Response 3)]

14 **1186.** The reason Dr. Engstrom employed the double regression procedure
15 rather than a single regression, in which the percentage of the votes received by a
16 candidate or group of candidates is regressed onto the percentage Latino within the
17 precincts, was to take into account the possibility that the two groups participated in the
18 election at different rates. [Exhibit 557 (Engstrom Response 3)]

19 **1187.** According to Dr. Engstrom, HP analysis reports the percentage of the
20 voters supporting a candidate or set of candidates within the precincts in which a
21 particular group constitutes over ninety percent of the voting age population. [Exhibit
22 556 (Second Engstrom Report 4)]

23 **1188.** According to Dr. Engstrom, HP analysis is a straightforward
24 procedure in which precincts identified as being “homogeneous,” meaning predominantly
25 composed of voters from one group or another, are the only precincts examined. [Exhibit
26 557 (Engstrom Response 2)]

1 **1189.** Dr. Engstrom defines “homogeneous” as greater than ninety percent
2 of the indicator on which the measure is based. [Exhibit 557 (Engstrom Response 2)]

3 **1190.** In Dr. Engstrom’s analyses, “homogenous” is the voting age
4 population (hereinafter VAP) of the precincts. [Exhibit 557 (Engstrom Response 2)]

5 **1191.** In Dr. Engstrom’s analyses, the votes cast for the various candidates
6 are expressed as a percentage of the total votes cast within these precincts for that
7 candidate or set of candidates. [Exhibit 557 (Engstrom Response 2)]

8 **1192.** According to Dr. Engstrom, EI analysis is an estimation procedure
9 that also takes into account all of the precincts in which votes are cast. [Exhibit 555
10 (Second Engstrom Report 4)]

11 **1193.** EI analysis was developed subsequent to *Gingles* by Gary King.
12 [Exhibit 556 (Second Engstrom Report 4)]

13 **1194.** According to Dr. Engstrom, the EI procedure does on occasion fail to
14 provide estimates. [Addendum to Report of Dr. Richard L. Engstrom 2, March 21, 2008
15 (“Addendum to Engstrom Report”)]

16 **1195.** According to Dr. Engstrom, EI analysis, like ER, uses data for all
17 precincts when deriving estimates. [Exhibit 557 (Engstrom Response 3)]

18 **1196.** According to Dr. Engstrom, the Supreme Court, has not reviewed a
19 case in which the evidence on the extent to which voting has been racially polarized, if at
20 all, is based *only* on EI estimates. [Exhibit 557 (Engstrom Response 4)]

21 **1197.** According to Dr. Engstrom, it has been common for expert witnesses
22 to report EI estimates for a number of years, not exclusively, but rather along with those
23 derived through ER and HP. [Exhibit 557 (Engstrom Response 4)]

24 **1198.** Since *Gingles*, courts have relied on HP and ER, while, more
25 recently, King’s EI method has been used increasingly in conjunction with the other two
26 as an additional means for determining the existence of racial bloc voting.

1 **1199.** Dr. Engstrom’s analyses included the following elections: the 2002
2 Democratic primary for Governor; the 2002 Democratic primary for U.S. District 7; the
3 2002 Democratic primary for State Senate District 13; the 2002 Democratic primary for
4 State Senate District 14; the 2004 general election for U.S House District 2; the 2004
5 general election for U.S. House District 4; the 2004 general election for U.S. House
6 District 7; the 2006 general election for Secretary of State; the 2006 general election for
7 U.S. House District 4; and the 2006 general election for U.S. House District 7. [Exhibits
8 555 & 556 (Engstrom Report 4; Second Engstrom Report 4)]

9 **1200.** Dr. Engstrom’s analysis relies only on precincts for which there is
10 both election and demographic data, which include almost all of the votes cast in these
11 elections. [Exhibit 555 (Engstrom Report 4)]

12 **1201.** Dr. Engstrom chose the elections for his analyses based on the size of
13 the election unit involved. They include a statewide election, the portion of a statewide
14 election held with in the state’s largest county, Maricopa, or elections to single person
15 offices in what constitute the largest election districts in the state, U.S. House districts
16 and state senate districts. [Exhibit 556 (Second Engstrom Report 5)]

17 **1202.** According to Dr. Engstrom, all of the data files he used in his
18 analyses match the votes cast within precincts in these elections with the demographic
19 data for the precincts. Changes in precinct configurations over time have been
20 incorporated into this matching so that votes cast are matched to the demographics for the
21 precincts in place at the time of the election. [Exhibit 556 (Second Engstrom Report 5)]

22 **1203.** According to Dr. Engstrom, there are some precincts within which,
23 according to the census data, no one of voting age resides, yet votes are cast within them.
24 [Exhibit 556 (Second Engstrom Report 5)]

25 **1204.** According to Dr. Engstrom, there are also some precincts in which
26 the census reports at least some people of voting age residing, yet the number of votes

1 cast exceeds the reported voting age population. This later phenomenon occurs more
2 often as the elections are held further from the time of the census. [Exhibit 556 (Second
3 Engstrom Report 5-6)]

4 **1205.** Dr. Engstrom's analyses rely on precincts for which there is both
5 election and demographic data, and in which the number of votes did not exceed the
6 voting age population. These precincts account for almost all of the votes cast in these
7 elections. [Exhibit 556 (Second Engstrom Report 6)]

8 **1206.** Dr. Engstrom's analyses indicate that Latino voters have been
9 cohesive in their support for Latino candidates. They have had a preference for Latino
10 candidates whether they were incumbents or not. [Exhibits 555 & 556 (Engstrom Report
11 5; Second Engstrom Report 6)]

12 **1207.** Dr. Engstrom's analyses indicate that Non-Latinos did not provide
13 any non-incumbent Latino candidate with a majority of their votes in any instance.
14 [Exhibit 556 (Second Engstrom Report 6)]

15 **1208.** Using ER, Dr. Engstrom found that in the 2002 Democratic Primary
16 Election for Governor, Alfredo Gutierrez received an estimated 67.6 percent of the votes
17 cast by Latinos, and 12.1 by non-Latinos. [Exhibit 556 (Second Engstrom Report 8)]

18 **1209.** Using HP, Dr. Engstrom was unable to produce estimates for the
19 percent of votes cast for Alfredo Gutierrez by Latinos in the Democratic Primary Election
20 for Governor. Alfredo Gutierrez received 14.8 percent of the votes cast by non-Latinos.
21 [*Id.* at 8]

22 **1210.** Using EI, Dr. Engstrom found that in the 2002 Democratic Primary
23 Election for Governor, Alfredo Gutierrez received an estimated 62.4 percent of the votes
24 cast by Latinos, and 13.9 by non-Latinos. [*Id.* at 8]

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26

1 **1211.** Using ER, Dr. Engstrom found that in the 2002 Democratic Primary
2 Election for U.S. House District 7, all Latino candidates received an estimated 82.5
3 percent of the votes cast by Latinos, and 43.7 by non-Latinos. [*Id.* at 8]

4 **1212.** Using ER, Dr. Engstrom found that in the 2002 Democratic Primary
5 Election for U.S. House District 7, Raul Grijalva received an estimated 54.2 percent of
6 the votes cast by Latinos, and 25.8 by non-Latinos. [*Id.*]

7 **1213.** Using HP, Dr. Engstrom found that in the 2002 Democratic Primary
8 Election for U.S. House District 7, all Latino candidates received an estimated 75.3
9 percent of the votes cast by Latinos, and 46.6 by non-Latinos. [*Id.*]

10 **1214.** Using HP, Dr. Engstrom found that in the 2002 Democratic Primary
11 Election for U.S. House District 7, Raul Grijalva received an estimated 43.2 percent of
12 the votes cast by Latinos, and 27.8 by non-Latinos. [*Id.*]

13 **1215.** Using EI, Dr. Engstrom found that in the 2002 Democratic Primary
14 Election for U.S. House District 7, all Latino candidates received an estimated 75.7
15 percent of the votes cast by Latinos, and 50.3 by non-Latinos. [*Id.*]

16 **1216.** Using EI, Dr. Engstrom found that in the 2002 Democratic Primary
17 Election for U.S. House District 7, Raul Grijalva received an estimated 48.9 percent of
18 the votes cast by Latinos, and 30.8 by non-Latinos. [*Id.*]

19 **1217.** Using ER, Dr. Engstrom found that in the 2002 Democratic Primary
20 Election for State Senate District 13, Richard Miranda received an estimated 92.0 percent
21 of the votes cast by Latinos, and -37.1 by non-Latinos. [*Id.*]

22 **1218.** Using HP and EI, Dr. Engstrom was unable to produce estimates for
23 the percent of votes cast for Richard Miranda by Latinos or non-Latinos in the 2002
24 Democratic Primary Election for State Senate District 13. [*Id.*]

25
26

1 **1219.** Using ER, Dr. Engstrom found that in the 2002 Democratic Primary
2 Election for State Senate District 14, Earl Wilcox received an estimated 120.0 percent of
3 the votes cast by Latinos, and 26.7 by non-Latinos. [*Id.*]

4 **1220.** Using HP, Dr. Engstrom was unable to produce estimates for the
5 percent of votes cast for Earl Wilcox by Latinos or non-Latinos in the 2002 Democratic
6 Primary Election for State Senate District 14. [*Id.*]

7 **1221.** Using EI, Dr. Engstrom found that in the 2002 Democratic Primary
8 Election for State Senate District 14, Earl Wilcox received an estimated 83.5 percent of
9 the votes cast by Latinos, and 32.2 by non-Latinos. [*Id.*]

10 **1222.** Using ER, Dr. Engstrom was unable to produce estimates for the
11 percent of votes cast for Randy Camacho by Latinos in the 2004 General Election for U.S
12 House District 2. Randy Camacho received 36.2 percent of the votes cast by non-
13 Latinos. [*Id.* at 9]

14 **1223.** Using HP, Dr. Engstrom was unable to produce estimates for the
15 percent of votes cast for Randy Camacho by Latinos in the 2004 General Election for U.S
16 House District 2. Randy Camacho received 36.8 percent of the votes cast by non-
17 Latinos. [*Id.*]

18 **1224.** Using EI, Dr. Engstrom found that in the 2004 General Election for
19 U.S House District 2, Randy Camacho received an estimated 84.6 percent of the votes
20 cast by Latinos, and 36.8 by non-Latinos. [*Id.*]

21 **1225.** Using ER, Dr. Engstrom found that in the 2004 General Election for
22 U.S. House District 4, Ed Pastor received an estimated 146.2 percent of the votes cast by
23 Latinos, and 61.2 by non-Latinos. [*Id.*]

24 **1226.** Using HP, Dr. Engstrom was unable to produce estimates for the
25 percent of votes cast for Ed Pastor by Latinos in the 2004 General Election for U.S.
26 House District 4. Ed Pastor received 61.4 percent of the votes cast by non-Latinos. [*Id.*]

1 **1227.** Using EI, Dr. Engstrom found that in the 2004 General Election for
2 U.S. House District 4, Ed Pastor received an estimated 98.5 percent of the votes cast by
3 Latinos, and 62.8 by non-Latinos. [*Id.*]

4 **1228.** Using ER, Dr. Engstrom found that in the 2004 General Election for
5 U.S. House District 7, Raul Grijalva received an estimated 87.9 percent of the votes cast
6 by Latinos, and 48.4 by non-Latinos. [*Id.*]

7 **1229.** Using HP, Dr. Engstrom found that in the 2004 General Election for
8 U.S. House District 7, Raul Grijalva received an estimated 88.9 percent of the votes cast
9 by Latinos, and 56.4 by non-Latinos. [*Id.*]

10 **1230.** Using EI, Dr. Engstrom found that in the 2004 General Election for
11 U.S. House District 7, Raul Grijalva received an estimated 85.4 percent of the votes cast
12 by Latinos, and 49.4 by non-Latinos. [*Id.*]

13 **1231.** Using ER, Dr. Engstrom found that in the 2006 General Election for
14 Secretary of State, Israel Torres received an estimated 74.6 percent of the votes cast by
15 Latinos, and 37.5 by non-Latinos. [*Id.*]

16 **1232.** Using HP, Dr. Engstrom found that in the 2006 General Election for
17 Secretary of State, Israel Torres received an estimated 85.9 percent of the votes cast by
18 Latinos, and 37.8 by non-Latinos. [*Id.*]

19 **1233.** Using EI, Dr. Engstrom was unable to produce estimates for the
20 percent of votes cast for Israel Torres by Latinos or non-Latinos in the 2006 general
21 election for Secretary of State. [*Id.*]

22 **1234.** Using ER, Dr. Engstrom found that in the 2006 General Election for
23 U.S. House District 4, Ed Pastor received an estimated 73.9 percent of the votes cast by
24 Latinos, and 72.1 by non-Latinos. [*Id.*]

25

26

1 **1235.** Using HP, Dr. Engstrom was unable to produce estimates for the
2 percent of votes cast for Ed Pastor by Latinos in the 2006 General Election for U.S.
3 House District 4. Ed Pastor received 72.0 percent of the votes cast by non-Latinos. [*Id.*]

4 **1236.** Using EI, Dr. Engstrom found that in the 2006 General Election for
5 U.S. House District 4, Ed Pastor received an estimated 74.1 percent of the votes cast by
6 Latinos, and 71.9 by non-Latinos. [*Id.*]

7 **1237.** Dr. Engstrom concluded that Ed Pastor, who serves a majority-Latino
8 district, was the clear choice of non-Latino voters in his district in the 2004 and 2006
9 General Elections. [*Id.*]

10 **1238.** Using ER, Dr. Engstrom found that in the 2006 General Election for
11 U.S. House District 7, Raul Grijalva received an estimated 85.5 percent of the votes cast
12 by Latinos, and 50.3 by non-Latinos. [*Id.*]

13 **1239.** When Dr. Engstrom included non-Latino whites and non-Latino
14 Native Americans separately in his analysis, Raul Grijalva's estimated support levels are
15 80.4 percent among Latinos, 96.1 percent among Native Americans, and 46.0 percent
16 among non-Hispanic whites. The estimated rate of turnout for the remaining voters is
17 negative. [Exhibit 559 (Addendum to Engstrom Report at 1)]

18 **1240.** Using HP, Dr. Engstrom found that in the 2006 General Election for
19 U.S. House District 7, Raul Grijalva received an estimated 86.6 percent of the votes cast
20 by Latinos, and 54.5 by non-Latinos. [Exhibit 556 (Second Engstrom Report 9)]

21 **1241.** Using EI, Dr. Engstrom found that in the 2006 General Election for
22 U.S. House District 7, Raul Grijalva received an estimated 84.4 percent of the votes cast
23 by Latinos, and 51.3 by non-Latinos. [*Id.*]

24 **1242.** Although Dr. Engstrom originally concluded that Raul Grijalva
25 received close to or a little over majority support from the non-Latino voters in his
26 district in 2006, he is now convinced that Mr. Grijalva actually did not receive a majority

1 of the votes from the non-Latino voters. This is based on data made available to him
2 recently that matches the voting data to a better measure of the Hispanic and non-
3 Hispanic electorate in the precincts. A Spanish surname analysis has been applied to
4 these data, providing estimates of the Latino and non-Latino registered voters with them.
5 These data are based on the state's voter registration data as of September 11, 2007.
6 According to Dr. Engstrom, these data provide a superior measure of the precinct
7 electorates that do the voting age population (VAP) data from the 2000 Census, which
8 reports who lived in the precinct on April 1, 2000, six years before the election. [Exhibit
9 556 & 557 (Second Engstrom Report 6; Engstrom Response 6)]

10 **1243.** Through EI using these voter registration data, Mr. Grijalva is
11 estimated to have received 99.3 percent of the votes cast by Latinos and 48.28 percent of
12 those cast by non-Latinos. [Exhibit 557 (Engstrom Response 10)]

13 **1244.** The ER analysis with these data estimates that Mr. Grijalva received
14 102.3 percent of the votes cast by Latino voters, and 46.7 of those cast by non-Latino
15 voters. [*Id.*]

16 **1245.** The estimates of the vote for Mr. Pastor in the 2006 District 4
17 election, based on these voter registration data, are 92.6 percent of the Latino vote and
18 68.7 percent of the non-Latino vote based on EI, and 114.4 percent of the Latino vote and
19 65.7 percent of the non-Latino vote based on ER. [*Id.*]

20 **1246.** In the two precincts with more than 80 percent in Latino voter
21 registration, Mr. Pastor received 93.9 percent, while in the non-Latino homogeneous
22 precincts his vote was 70.1 percent. [*Id.*]

23 **1247.** Using the voter registration data, EI continued to fail to produce
24 estimates for the 2006 Secretary of State election. [*Id.*]

25 **1248.** According to Dr. Engstrom, using the voter registration data, the ER
26 estimate, of the Latino support for Mr. Torres in that election is far from within the

1 bounds of reality, 250.7 percent, while the estimate for his non-Latino support is 33.5
2 percent. [*Id.*]

3 **1249.** The support for Mr. Torres in the non-Latino homogeneous precincts
4 is 35.5 percent. [*Id.*]

5 **1250.** There were no precincts in which Latinos constituted more than 90
6 percent of the registered voters, but in the three precincts in which Latinos constituted
7 more than 85 percent, the support for Mr. Torres was 88.9 percent, and in the five
8 precincts in which Latinos constituted more than 80 percent, Mr. Torres' vote was 87.6
9 percent. [*Id.*]

10 **1251.** The data files using voter registration data for these elections contain
11 complete coverage of the vote in every election. [*Id.*]

12 **1252.** The State of Arizona Official Canvass of the 2006 General Election
13 reported 60.47% turnout. [Exhibit 493]

14 **1253.** Dr. Engstrom provides additional analyses of group divisions in
15 candidate preferences in five more Counties in the 2002 Democratic gubernatorial
16 Primary Election, in addition to estimates of the voter turnout within the groups in all of
17 the following elections: the 2002 Democratic Primary Election for Governor; the 2002
18 Democratic Primary Election for U.S. District 7; the 2002 Democratic Primary Election
19 for State Senate District 13; the 2002 Democratic Primary Election for State Senate
20 District 14; the 2004 General Election for U.S House District 2; the 2004 General
21 Election for U.S. House District 4; the 2004 General Election for U.S. House Dist. 7; the
22 2006 General Election for Secretary of State; the 2006 General Election for U.S. House
23 District 4; and the 2006 General Election for U.S. House District 7. [Exhibit 560
24 (Supplemental Report of Dr. Richard L. Engstrom 1, April 2, 2008 (“Engstrom Supp.
25 Report”)))]

26

1 **1254.** Dr. Engstrom’s results indicate that Latino voters had a preference
2 for the Latino candidate in four of the five Counties that were analyzed. [Exhibit 560
3 (Engstrom Supp. Report 2)]

4 **1255.** According to Dr. Engstrom, in Pima County and Yuma County all
5 estimates show the Latino candidate to be the choice of a majority of Latino voters. [*Id.*]

6 **1256.** According to Dr. Engstrom, in LaPaz County the Latino candidate
7 wins a majority of the Latino votes according to the ER analysis and a plurality according
8 to the EI analysis. [*Id.*]

9 **1257.** According to Dr. Engstrom, in Pinal County both available estimates
10 identify the Latino candidate as a plurality choice. [*Id.*]

11 **1258.** According to Dr. Engstrom, in Santa Cruz County, Governor Janet
12 Napolitano was the preferred candidate of the Latino voters. [*Id.*]

13 **1259.** According to Dr. Engstrom, non-Hispanic support for the Hispanic
14 candidate was very low in all five Counties, regardless of the estimation method
15 employed. [*Id.*]

16 **1260.** Dr. Engstrom concluded that given these differences in candidate
17 support, any voter registration or voting requirement that has a disproportionately
18 negative impact on Latino voting would impede that group’s ability to elect
19 representatives of its choice. [*Id.*]

20 **1261.** According to Dr. Engstrom, voter turnout was very low in the 2002
21 Democratic Primary Elections for the VAP of Latinos and non-Latinos that voted in the
22 election at issue. [*Id.*]

23 **1262.** According to Dr. Engstrom, there is not a clear tendency for the VAP
24 of Latinos that voted in the elections at issue to turnout at a higher rate than the VAP of
25 non-Latinos that voted in the elections at issue. [*Id.*]

26

1 **1263.** According to the results of Dr. Engstrom’s analyses, voting has been
2 racially polarized in Arizona elections. [Engstrom Report 6; Second Engstrom Report 6]
3 Dr. Rodolfo Espino examined voter registration data across the fifteen Counties of
4 Arizona and assessed effects on Arizona’s Hispanic population since the implementation
5 of Proposition 200. [Exhibit 561 (Expert Report of Dr. Rodolfo Espino, III 1, January 7,
6 2008 (“Espino Report”))]

7 **1264.** To conduct his analyses, Dr. Espino used a statewide voter database
8 for Arizona that was merged with a Hispanic surname database in order to code
9 individual voter’s as Hispanic. [Exhibit 561 (Espino Report 2)]

10 **1265.** Utilizing this data, Dr. Espino examined the percentage of voters
11 with Hispanic surnames who were registered from the start of the implementation of
12 Proposition 200 (January 1, 2005) to the end of July 2007 – 941 days. [*Id.*]

13 **1266.** He compared this figure to the percentage of voters with Hispanic
14 surnames who were registered to vote in the 941 days preceding the implementation of
15 Proposition 200 - June 04, 2002 to December 31, 2004. [*Id.*]

16 **1267.** Dr. Espino plotted the percentage of Hispanic voters registered across
17 this 62 month time period on a number of time series charts. [*Id.*]

18 **1268.** According to Dr. Espino, normally there are cyclical ups and downs
19 to the total number of voters registered in a jurisdiction - usually an upswing in the early
20 part of an election year and then a down surge following the election date. [*Id.*]

21 **1269.** According to Dr. Espino, if all individuals, irrespective of race, are
22 being registered at the same proportion, the data should fall in a constant line across in
23 time. [*Id.*]

24 **1270.** Dr. Espino noted, however, that data was not constant across time in
25 his analyses. [*Id.*]

26

1 **1271.** For example, in the late spring and summer of 2004, a modest
2 increase in the Hispanic registration rate can be seen - an increase of about 4 percent
3 heading into the 2004 general election. This increase was followed by a rapid decline
4 following the 2004 general election cycle and into the first half of 2005. According to
5 Dr. Espino, this should not occur if Hispanics were continuing to be registered at the
6 same proportion as other voters. [*Id.*]

7 **1272.** Furthermore, the lack of a significant recovery of this registration rate
8 in the ensuing two years demonstrates that Hispanics were continuing to experience
9 registration lower than their share of the total state population and at rates even lower
10 than the previous mid-term general election cycle in 2002. [Exhibit 561 at 2-3]

11 **1273.** Dr. Espino observed an unexpected bump in the Hispanic registration
12 rate in the late spring and early summer of 2007. This spike was unanticipated because
13 2007 was not a general election year. [*Id.*]

14 **1274.** According to Dr. Espino, this spike of registration rates for Hispanics
15 beyond 18 percent for several months pulls the rate of Hispanic registration for the 31
16 months following January 2005 to levels nearly equivalent to the 31 months preceding
17 January 2005. [*Id.*]

18 **1275.** To provide further substantive interpretation the voter registration
19 data Dr. Espino plotted, he provided fitted line values as a function of the slope
20 coefficients and time in weeks for Hispanics and non-Hispanics for the period preceding
21 Proposition 200 and the period following Proposition 200. [Exhibit 562 (Reply of Dr.
22 Rodolfo Espino, III 4, May 22, 2008 (“Espino Reply”))]

23 **1276.** Dr. Espino did so for each of Arizona’s 15 Counties. [Exhibit 562 at
24 4]

25 **1277.** Dr. Espino notes that any positive values of coefficients for Hispanics
26 or non-Hispanics indicate an increase in the value of the coefficients - in other words, an

1 increase in the rate of that demographic group becoming registered to vote. Conversely,
2 any negative values in the percent change of the coefficients between the two time
3 periods indicate a decline in the rate of that demographic group becoming registered to
4 vote. [*Id.*]

5 **1278.** According to Dr. Espino, making the very conservative assumption
6 that there are no population changes between Hispanics and non-Hispanics across this
7 time period, one would expect that there would be no percent change in the weekly
8 registration rate if Proposition 200 had no differing impact between demographic groups.
9 [*Id.*]

10 **1279.** That was not the result here, however, as Dr. Espino observes
11 variation in the changes across Arizona's Counties. [Exhibit 562 at 5]

12 **1280.** According to Dr. Espino, the reason there is added value in such a
13 county by county analysis is because Arizona's Hispanic population is not uniformly
14 distributed across Arizona's 15 Counties. [*Id.*]

15 **1281.** Two of Arizona's Counties with high populations of Hispanic
16 citizens are Pima and Yuma Counties. [Exhibit 562 at 6]

17 **1282.** Therefore, according to Dr. Espino, the drop in the registration rate of
18 Hispanics following Proposition 200 in some of Arizona's most heavily Hispanic
19 Counties suggests that the effects of Proposition 200 are detrimental to a large number of
20 Hispanic citizens in Arizona. [*Id.*]

21 **1283.** Because Arizona consists of 15 Counties with tremendous variability
22 in population size, Dr. Espino attempted to parse out the registration rates of Hispanics
23 for each of these 15 Counties in the time period under consideration. [Exhibit 562 at 2-3]

24 **1284.** According to Dr. Espino, the registration rates of Hispanics for
25 Maricopa County most closely resemble the overall state trend. [*Id.*]

26

1 **1285.** Maricopa County is Arizona’s largest county, and Dr. Espino notes
2 that it is therefore not unusual that Maricopa County drives the overall state average.
3 [Exhibit 562 at 4]

4 **1286.** According to Dr. Espino, his observation of the Hispanic voter
5 registration is justified because it is informed by an understanding of the history of voter
6 disenfranchisement in Arizona and also by the fact that ocular assessments are common
7 place in many scientific fields, particularly when it relates to communicating results to a
8 wider audience. [Exhibit 563 (Second Rebuttal of Dr. Rodolfo Espino, III 6, March 9,
9 2008 (“Second Espino Rebuttal”))]

10 **1287.** According to Dr. Espino, when performing ocular assessments of
11 time-series data, it is imperative to keep in mind what is being looked at, in this case, the
12 rate of Hispanic voter registration in the state of Arizona. [Exhibit 563 at 1]

13 **1288.** According to Dr. Espino, an understanding of the voter registration
14 data under consideration should inform a knowledgeable scientist what might be
15 expected, particularly in the State of Arizona. [*Id.*]

16 **1289.** According to Dr. Espino, the State of Arizona is covered by many
17 sections of the Voting Rights Act, which was renewed by Congress in 2006. Arizona is
18 under coverage because of its past history in disenfranchising minority populations. [*Id.*]

19 **1290.** According to Dr. Espino, with an understanding of this history in
20 mind, it can be seen that the effect of Proposition 200 continues this legacy of presenting
21 significant barriers to the ability of Arizona’s Hispanic population to register to vote.
22 [*Id.*]

23 **1291.** According to Dr. Espino, myriad scholarship provides well-
24 documented effects of such electoral laws and on the continuing effect it has on minority
25 populations today. [*Id.*]

26

1 **1292.** According to Dr. Espino, generally rules inhibit participation when
2 they place undue costs on individuals, but these rules affect those with lower levels of
3 education disproportionately. [Exhibit 564 (Espino Reply 1)]

4 **1293.** According to Dr. Espino, the factors that affect minorities, and
5 minority participation, result from, at times, seemingly innocuous provisions such as the
6 type of voting equipment used. [Exhibit 564 at 2]

7 **1294.** According to Dr. Espino, one study showed that Blacks cast invalid
8 ballots at higher rates than Whites, when punch cards are used, leading the authors to
9 recommend Direct Recording Electronic machines (DREs). [*Id.*]

10 **1295.** The factors contributing to this phenomenon are not only lower
11 levels of education, but also less experience with voting devices, as well as less
12 willingness on the part of minorities to seek assistance at the polls where there is racial
13 intimidation or a history of disenfranchisement. [*Id.*]

14 **1296.** Another study analyzed the use of Internet Voting for the Democratic
15 Party's primary election in Arizona on March 11, 2000. [*Id.*]

16 **1297.** The author concluded that it was the economically well off who
17 benefited from this method, and there was modest evidence that nonwhite populations
18 were disadvantaged. [*Id.*]

19 **1298.** According to Dr. Espino, another seemingly innocuous provision is
20 the nonpartisan ballot, which one study showed "disadvantage the poor, the working
21 classes, liberal voters and Democrats." [*Id.*]

22 **1299.** Another study showed that election-day registration (EDR), adopted
23 by many states between 1990 and 1994, helps to improve turnout among young persons,
24 and recent movers. [*Id.*]

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26

1 **1300.** Another study proposed the idea that electoral laws be assessed not
2 only with regard to pre-existing guidelines, but also with regard to their outcomes, or
3 impact on minority populations. [*Id.*]

4 **1301.** According to Dr. Espino, this was in the context of gerrymandering,
5 of course, but it resonates in the context of Proposition 200, because all rules and
6 institutions that translate preferences into electoral outcomes affect representation,
7 especially that of racial and ethnic groups. [*Id.*]

8 **1302.** Another study noted that the practice of purging inactive voters, and
9 mail-in balloting, both of which impact access, were negative and significant as
10 predictors of voting by naturalized Latin American immigrants. [*Id.*]

11 **1303.** According to Dr. Espino, de jure attempts to curtail voting by Blacks
12 in the form of literacy tests, and poll taxes, as well as by the less well known methods of
13 white primaries and “good moral character” clauses are well documented, but just as
14 important was the “uneven application” of them, including the refusal to accept poll tax
15 payments from Blacks, and, potentially more directly related to the present, the
16 registration of whites in spite of not having met requirements. [*Id.*]

17 **1304.** Another study cited by Dr. Espino analyzed exit polls conducted in
18 California, New Mexico and Washington during the 2006 election. [Exhibit 564 at 3]

19 **1305.** The authors find that being an ethnic minority in these states (e.g.
20 Latino, Asian or Black) was negatively and significantly related to being unable to
21 provide identification above and beyond a driver’s license, controlling for the
22 independent impact of income, education, sex, time spent in the U.S. and being foreign-
23 born, among others. For the foreign-born, even a Driver’s License was difficult to
24 provide. [*Id.*]

25
26

1 **1306.** According to Dr. Espino, nearly every scientific discipline relies on
2 ocular assessments for data collection and estimation. [Exhibit 565 (Rebuttal of Dr.
3 Rodolfo Espino 4, March 7, 2008 (“Espino Rebuttal”))]

4 **1307.** According to Dr. Espino, nearly every scientific discipline relies on
5 such ocular assessments for data collection and estimation. [Exhibit 565 at 1]

6 **1308.** According to Dr. Espino, the basis for ocular assessments is premised
7 on scientists’ ability to effectively communicate conclusions to a wider audience. [*Id.*]

8 **1309.** According to Dr. Espino, the visual presentation of data serves as an
9 effective and transparent way of communicating findings of patterns in data to a wide
10 array of audiences that can be easily understood, and more importantly, provide an
11 effective way of observing differences in data, particularly differences in data over time
12 that would otherwise be hidden with simple summary measures, such as the mean, or
13 with sophisticated, quantitative regression models. [*Id.*]

14 **1310.** According to Dr. Espino, the drop in the rate of voter registration for
15 Hispanics in Arizona following the implementation of Proposition 200 would be even
16 more pronounced if Maricopa County was excluded from the statewide analysis.

17 **1311.** Dr. Espino plotted the registration rates of Hispanics for each of
18 Arizona’s 15 Counties, then rescale all the vertical axes to take on the range of the county
19 with the most variability across time (Greenlee County) to improve comparability.
20 [Exhibit 561 at 5]

21 **1312.** Dr. Espino identified Greenlee and Yuma Counties as being Counties
22 with particularly dramatic shifts in the rate of Hispanics being registered before and after
23 the implementation of Proposition 200’s identification requirements. [*Id.*]

24 **1313.** According to Dr. Espino, Greenlee County experienced over a 7
25 percent drop in the percent of Hispanics being registered after January 1, 2005. [Exhibit
26 561 at 6]

1 **1314.** In the 31 months preceding the implementation of Proposition 200's
2 identification requirements, 25.76 percent of the voters registered in Greenlee County
3 were of Hispanic origin. In the ensuing 31 months, this figure dropped to 18.58 percent.
4 [*Id.*]

5 **1315.** Dr. Espino noted that in Yuma County, the registration of Hispanics
6 dropped by over 5 percent after January 1, 2005. [*Id.*]

7 **1316.** Specifically, 37.18 percent of the voters registered in Yuma County
8 prior to January 1, 2005 were of Hispanic descent. After the implementation of
9 Proposition 200's requirements, this figure dropped to 31.67 percent. [*Id.*]

10 **1317.** Dr. Espino concluded that if Proposition 200's registration
11 requirements had neutral effects on the proportion of Hispanics attempting to register to
12 vote over time than we should not expect to see dramatic shifts in the percentage of
13 Hispanics registering to vote over time. [*Id.*]

14 **1318.** Moreover, since Hispanics are registered to vote at rates below the
15 general population, Dr. Espino concluded that dramatic downward shifts in a growing
16 electorate, such as Hispanics should not be expected. [*Id.*]

17 **1319.** In his analyses, Dr. Espino also provided cross tabulations of the
18 number of individuals with Hispanic surnames registered before and after the
19 implementation of Proposition 200. [Exhibit 565 at 5]

20 **1320.** Looking at the whole state of Arizona, Dr. Espino observed an
21 overall drop in the average number of individuals with Hispanic surnames becoming
22 registered to vote. [*Id.*]

23 **1321.** Specifically, before the implementation of Proposition 200, there
24 was an average of approximately 60 individuals with Hispanic surnames becoming
25 registered to vote each week. Following the implementation of Proposition 200, there has
26 been an average of approximately 42 individuals with Hispanic surnames becoming

1 registered to vote each week. This amounts to approximately 18 less individuals with
2 Hispanic surnames being registered in Arizona each week since the implementation of
3 Proposition 200. [*Id.*]

4 **1322.** According to Dr. Espino, this difference between the two time
5 periods is statistically significant. [*Id.*]

6 **1323.** Dr. Espino also considered whether individuals with non-Hispanic
7 surnames have also seen a marked decline in registration rates since the implementation
8 of Proposition 200. [Exhibit 565 at 6]

9 **1324.** Dr. Espino performed the same difference-in-means tests for
10 individuals not identified with Hispanic surnames in order to observe whether there has
11 been an equivalent decline in the registration figures for other individuals, which if true,
12 would preclude any claim that the registration requirements imposed by Proposition 200
13 are unduly burdening Hispanic individuals relative to all other individuals. [*Id.*]

14 **1325.** Dr. Espino's analysis revealed that non-Hispanic surnamed
15 individuals were registered at a rate 30 percent less than before Proposition 200 went into
16 effect. By contrast, Hispanic surnamed individuals were registered at a rate 43 percent
17 less than before the implementation of Proposition 200. [Exhibit 563 at 6, March 9,
18 2008]

19 **1326.** Therefore, following the implementation of Proposition 200,
20 Hispanics experienced a greater percentage drop than non-Hispanics. [Exhibit 565 at 6]

21 **1327.** Dr. Espino also examined variability across Counties in order to
22 identify differences across Arizona's fifteen Counties. [Exhibit 565 at 7]

23 **1328.** In his basic statistical test, Dr. Espino observed that in 10 of
24 Arizona's 15 Counties, there was a statistically significant lower registration rate for
25 Hispanics following the implementation of Proposition 200. [*Id.*]

26

1 **1329.** In 7 of these 10 Counties, the percentage decline in the average
2 number of Hispanics registered per week was greater than the percentage decline for non-
3 Hispanic surnamed individuals. [Exhibit 565 at 7]

4 **1330.** Dr. Espino also used regression models to consider whether
5 registration rates between Hispanics and non-Hispanics experienced different rates of
6 change following the implementation of Proposition 200. [Exhibit 565 at 13]

7 **1331.** To do so, he examined the percent of individuals with Hispanic
8 surnames registered to vote each week. [Exhibit 565 at 7]

9 **1332.** This variable served as the dependent variable of interest, and he
10 regressed it on two independent variables: Time (measured in weeks) for the time period
11 preceding implementation of Proposition 200 and Time (measured in weeks) for the time
12 period following implementation of Proposition 200. [Exhibit 563 at 12]

13 **1333.** Using this regression, Dr. Espino first looked at the overall statewide
14 change in Hispanic voter registration rates. [*Id.*]

15 **1334.** To do so, he combined the weekly average Hispanic voter
16 registration rates for all of Arizona's fifteen Counties producing an overall sample size of
17 268 representing the 134 weeks preceding Proposition 200 and the 134 weeks following
18 Proposition 200. [*Id.*]

19 **1335.** According to the results of his regression estimation on these data,
20 Dr. Espino concluded that the rate of Hispanic voter registration has declined in the
21 period following the implementation of Proposition 200. [*Id.*]

22 **1336.** Dr. Espino verified that this claim is statistically significant with a 95
23 percent level of confidence. [*Id.*]

24 **1337.** Dr. Espino used the same regression estimation to determine whether
25 non-Hispanic surnamed individuals experienced a similar drop in the percent of
26 individuals being registered following the implementation of Proposition 200, this time

1 using the percent of non-Hispanic surnamed individuals as the dependent variable.
2 [Exhibit 563 at 13]

3 **1338.** Based on his analysis, Dr. Espino concluded that non-Hispanic
4 surnamed individuals also experienced a decline in the rate at which they were registering
5 to vote, but because the percent change in the coefficients for Hispanic surnamed
6 individuals is greater than the percent change in the coefficients for non-Hispanic
7 surnamed individuals. [*Id.*]

8 **1339.** Specifically, the OLS models show that the percent of Hispanic
9 individuals registered to vote each week in Arizona declined 6.29 percent following the
10 implementation of Proposition 200, while the corresponding decline for non-Hispanic
11 surnamed individuals declined just 5.36 percent. [*Id.*]

12 **1340.** According to Dr. Espino, while a difference of 0.93 percent between
13 Hispanic and non-Hispanic surnamed individuals may seem small on its face, this is a
14 difference in the rate of individuals registering to vote each week in Arizona. Over time
15 and given the increasing size of Arizona's Hispanic population, this can amount to
16 differences in thousands of voters each year. [*Id.*]

17 **1341.** Dr. Espino also considered the influence of Maricopa County in his
18 analyses. [Exhibit 563 at 14]

19 **1342.** Maricopa is the most populated county in Arizona, and according to
20 the 2000 United States Census is the fourth most populous county in the entire United
21 States. [*Id.*]

22 **1343.** 59.16 percent of all individuals registered to vote were registered to
23 vote in Maricopa County. [*Id.*]

24 **1344.** According to Dr. Espino, although Proposition 200 is a statewide
25 law, it is administered by 15 different county recorders who are responsible for
26

1 administering not just statewide elections but also local city council elections. [Exhibit
2 564 at 6]

3 **1345.** According to Dr. Espino, allowing the behavior of a single, large
4 county (i.e., Maricopa County) to dominate the overall statewide analysis would preclude
5 the observation of the effects in Arizona's 14 other Counties [*Id.*]

6 **1346.** Dr. Espino asserts that it would, therefore, be misleading to make
7 conclusions about the condition of voter registration rates for the entire state of Arizona
8 based on the singular behavior of voter registration rates within one county. [Exhibit 563
9 at 14]

10 **1347.** Dr. Espino therefore re-estimated his models excluding the
11 registration figures from Maricopa County. [*Id.*]

12 **1348.** Dr. Espino's results demonstrate even more forcefully the drop off in
13 the rate of Hispanic voter registration following Proposition 200. [*Id.*]

14 **1349.** Specifically, he found that the percent of Hispanic individuals
15 registered to vote each week in Arizona declined 10.06 percent following the
16 implementation of Proposition 200, while the corresponding decline for non-Hispanic
17 surnamed individuals declined just 4.17 percent. [*Id.*]

18 **1350.** Dr. Espino also considered the question of whether the periods
19 immediately preceding and following the implementation of Proposition 200 are not
20 comparable because these include a presidential cycle. [Exhibit 563 at 16]

21 **1351.** According to Dr. Espino, when considering differences in voter
22 registration between demographic groups, there is no theoretical basis in the extant
23 literature on voting behavior to exclude presidential election cycles. [Exhibit 563 at 18]

24 **1352.** According to Dr. Espino, cutting data in particular ways without
25 strong theoretical justification runs the risk of introducing bias in our ability to estimate
26 the effects of Proposition 200 on the change in voter registration rates. [*Id.*]

1 **1353.** Therefore, Dr. Espino refrained from arbitrarily removing data from
2 his analyses. [*Id.*]

3 **B. The Demographic Landscape of Arizona**

4 **1354.** The U.S. Census Bureau estimates that in 2005 the population of
5 Arizona was 5,939,292. [Exhibit 494]

6 **1355.** The U.S. Census Bureau's Poverty Threshold measure for Arizona
7 estimated that in 2004 there were over 13,000 two-person households with one related
8 child that were living in poverty. The report continues to detail the poverty threshold by
9 household size and number of related children for Arizona. [Exhibit 495]

10 **1356.** According to Dr. Jorge Chapa, Arizona's population grew very
11 rapidly since the year 2000. [Exhibit 566 (Expert Report of Dr. Jorge Chapa 1, January
12 4, 2008 ("Chapa Report"))]

13 **1357.** Between 2000 and 2006, Arizona's population increased by more
14 than one million people, or by twenty percent. [Exhibit 566 at 1]

15 **1358.** About half of the total increase was due to the even more rapid
16 growth of Arizona's Hispanic population. [*Id.*]

17 **1359.** In 2006, about three out of every ten Arizona residents was Hispanic.
18 [*Id.*]

19 **1360.** According to Dr. Chapa, Mexican-Origin Hispanics are by far the
20 largest group and comprise almost ninety percent of all Hispanics in Arizona. [*Id.*]

21 **1361.** Migrants are a large part of Arizona's population. [*Id.*]

22 **1362.** In 2006, a substantial majority of Arizona's residents in 2006 were
23 born in other states than were born in Arizona. [*Id.*]

24 **1363.** In 2006, 15.1 % of Arizona's population were foreign-born and
25 10.6% were not. [*Id.*]

26

1 **1364.** In 2006, Mexico was, by far, the leading country of origin for
2 Arizona's foreign-born population. [*Id.*]

3 **1365.** In 2006 about ninety percent of Arizona's Hispanic population under
4 age eighteen were U.S. citizens. [*Id.*]

5 **1366.** In 2006, sixty percent of Arizona Hispanics aged eighteen and older
6 were U.S. citizens. [*Id.*]

7 **1367.** In 2006, almost all of the non-Hispanics in Arizona were U.S.
8 citizens. [*Id.*]

9 **1368.** In 2006, one of every four voting-age citizens in Arizona was
10 Hispanic. [*Id.*]

11 **1369.** In 2006, about one-half of all naturalized voting-age citizens in
12 Arizona were Hispanic. [*Id.*]

13 **1370.** In 2006, seventy percent of Arizona's voting-age Hispanic population
14 were citizens compared to approximately ninety percent of the voting-age non-Hispanics.
15 [Exhibit 566 at 1-2]

16 **1371.** According to Dr. Chapa, between 2000 and 2006 there was a strong,
17 steady increase in the Hispanic citizen voting-age population (CVAP). [Exhibit 566 at 2]

18 **1372.** Hispanics are becoming naturalized citizens at an accelerating rate.
19 [*Id.*]

20 **1373.** From 2004 to 2005 ,the number of naturalizations for Hispanics
21 increased by 8.3% in contrast to the number of naturalizations for immigrants from non-
22 Hispanic countries, which increased by only 1.4%. [*Id.*]

23 **1374.** Arizona Hispanics, including foreign-born Hispanics, have lower
24 levels of education when compared to non-Hispanics. [*Id.*]

25 **1375.** According to Dr. Chapa, immigrants typically have low levels of
26 education and earnings, and recent immigrants are part of the explanation for the high

1 proportion of Hispanics concentrated in the lower educational levels and relatively few in
2 the higher education categories. [*Id.*]

3 **1376.** Lower levels of income and education correspond to lower levels of
4 automobile access among Hispanics. [*Id.*]

5 **1377.** In Arizona, educational disparities persist among third generation
6 Arizona Hispanics, or the U.S.-born children of U.S.-born parents. [*Id.*]

7 **1378.** In Arizona, the U.S.-born Hispanic children of U.S.-born parents
8 have achieved educational levels that are substantially different and lower than those of
9 third and third-plus generation white non-Hispanics. [*Id.*]

10 **1379.** Third-generation Hispanics in Arizona have far lower earnings than
11 white non-Hispanics in Arizona. [*Id.*]

12 **1380.** According to Dr. Chapa, data from the 2000 Census show that a
13 substantially larger proportion of Arizona Hispanics carpool and use public transportation
14 to travel to work than do white non-Hispanics. [Exhibit 566 at 3]

15 **1381.** Differences between the earnings of Hispanics and white non-
16 Hispanics are related to group differences in educational attainment. [*Id.*]

17 **1382.** Hispanics have not achieved parity with Anglos in terms of the
18 commonly used measures of assimilation--that is, educational and economic levels. [*Id.*]

19 **1383.** Hispanic U.S. citizens lag far behind the white non- Hispanic citizens
20 in voter registration and voting. [*Id.*]

21 **1384.** U.S.-born Hispanics in Arizona have not yet overcome the
22 consequences of past discrimination in education, employment and civic participation.
23 [*Id.*]

24 **1385.** According to Dr. Chapa, the income and education disparities that
25 persist among third generation Hispanics are due to discrimination in employment,
26

1 educational opportunities, housing, the use of public facilities, civic participation, and
2 voting. [Exhibit 567 (Rebuttal of Dr. Jorge Chapa 1, March 6, 2008 (“Chapa Rebuttal”))]

3 **1386.** In almost every year between 2000 and 2006, the Hispanic citizen
4 voting age population (CVAP) grew at a substantially faster rate than the non-Hispanic
5 CVAP. [Exhibit 568 (Rebuttal of Dr. Jorge Chapa 1, May 22,2008 (“Second Chapa
6 Rebuttal”))]

7 **1387.** According to Dr. Chapa, current statistics involving Arizona’s
8 Hispanic population indicate that Hispanic CVAP has and will continue to grow at a
9 faster rate than the white non-Hispanic CVAP. [Exhibit 568 at 2]

10 **XII. HISTORICAL AND CURRENT RACE DISCRIMINATION AGAINST** 11 **LATINOS IN ARIZONA**

12 **A. Arizona Has a Long History of Racial Discrimination**

13 **1388.** Since 1982, Arizona has had eighteen Section 5 objections – over
14 eighty percent of all Section 5 objections since Arizona or its political subdivisions were
15 first covered in 1965. [Exhibit 579 at54]

16 **1389.** Four of these post-1982 objections have been for statewide
17 redistricting plans, including one in the 1980s, two in the 1990s and one as recently as
18 2002. [Exhibit 579 at 54]

19 **1390.** These post-1982 objections have affected seven of Arizona’s 15
20 Counties, with DOJ finding that these voting changes had the purpose or effect of
21 discriminating against the State’s Latino or American Indian voters. [Exhibit 579 at 54]

22 **B. Lay testimony from Elected Officials**

23 **1391.** Alfredo Gutierrez is president and co-founder of Tequida and
24 Gutierrez LLC. [Exhibit 533 (Declaration of Alfredo Gutierrez (“Gutierrez”), at 2)]

25 **1392.** Alfredo Gutierrez has an extensive history of campaign work and
26 political activity in Arizona. He is the president and co-founder of Jamieson and

1 Gutierrez Inc, a political and public affairs consulting company in Arizona He also served
2 in the Arizona Legislature for 14 years and worked in numerous political campaigns
3 since 1970. [Exhibit 533 (Gutierrez at 2-3)]

4 **1393.** Alfredo Gutierrez was a member of the State Senate, where he was
5 both the majority and minority leader. [Exhibit 533 (Gutierrez at 2)]

6 **1394.** Alfredo Gutierrez has served on numerous boards and has an
7 extensive history of community service including Chairman of the Procurement Board
8 for Arizona Works and serving on the Policy Committee of the Violence Prevention
9 Initiative program. [Exhibit 533 (Gutierrez at 2)]

10 **1395.** In 2002, Alfredo Gutierrez declared his candidacy for Arizona
11 Governor and ran unsuccessfully in the Democratic primary. [Exhibit 533 (Gutierrez at
12 3)]

13 **1396.** Elizabeth Archuleta serves as the District 2 representative on the
14 Coconino County Board of Supervisors. [Exhibit 524 (Declaration of Elizabeth
15 Archuleta (“Archuleta”), at 3)]

16 **1397.** Elizabeth Archuleta began her career in public service in 1997 and
17 was the first Hispanic female elected to office in the history of Coconino County.
18 [Exhibit 524 (Archuleta at 2)]

19 **1398.** Over the past 25 years, Archuleta has worked extensively in political
20 campaigns and has served on numerous boards and civic organizations. She has
21 received many awards recognizing her commitment to the city of Flagstaff and the Latino
22 community. [Exhibit 524 (Archuleta-2-3)]

23 **1399.** The Hispanic Mother-Daughter Program, a higher education outreach
24 program, was founded by Archuleta. Further, she funds and supports two summer teen
25 work programs. [Exhibit 524 (Archuleta at 2)]

26

1 **1400.** Prior to her service on the Coconino County Board of Supervisors,
2 Archuleta spent 19 years working in higher education with a focus on multicultural
3 community relations at Northern Arizona University. [Exhibit 524 (Archuleta at 3)]

4 **1401.** Pete Rios has been a legislator for 24 years and is currently serving
5 his second term in the Arizona House of Representatives. Currently, Mr. Rios is a
6 member of the Appropriations, Higher Education, and Sub-Appropriations:
7 Transportation and Criminal Justice standing committees. [Exhibit 545 (Declaration of
8 Pete Rios (“Rios”), 2008 at 2)]

9 **1402.** Pete Rios is a native of Arizona and grew up in the state’s rich copper
10 mining area of Hayden-Winkelman. [Exhibit 545 (Rios at 2)]

11 **1403.** Pete Rios was first elected to the Arizona State Senate in 1982 and
12 has held the positions of Democratic Whip and Democratic Assistant Leader. In 1991, he
13 was elected President of the Arizona State Senate for the 40th Legislature as the first
14 Latino Senate President in the history of the state. [Exhibit 545 (Rios at 2)]

15 **1404.** In 1994, Pete Rios was the Democratic nominee for Secretary of
16 State, but lost in the general election. [Exhibit 545 (Rios at 3)]

17 **1405.** There is clear history of discrimination against Latinos in Arizona
18 and a history of suppressing Latino and other racial minority’s ability to exercise their
19 right to vote and engage in the political process and its effects are still felt today.
20 [Exhibit 524 (Archuleta at 3); Exhibit 533 (Gutierrez at 3); Exhibit 545 (Rios at 3)]

21 **1406.** Outside of the voting context, there is a long history of discrimination
22 in Arizona especially in the area of education that is still felt today. [Exhibit 533
23 (Gutierrez at 5)] Even after most of the nation had integrated, children in Flagstaff
24 remained segregated into separate schools. [Exhibit 524 (Archuleta at 3)] The
25 designated school for Latinos was South Beaver, the designated school for African
26 Americans was Dunbar School, and the Anglos had their own school. [Exhibit 524

1 (Archuleta at 3)] During this time, Mexican Americans attending school were strictly
2 prohibited from speaking Spanish. [Exhibit 545 (Rios at 3)]

3 **1407.** Flagstaff was historically segregated into Latino and African
4 American neighborhoods that were separated from Anglo neighborhoods. [Exhibit 524
5 (Archuleta at 3)]

6 **1408.** Latinos in Flagstaff were only allowed to sit in the balcony of the
7 movie theatre and were not allowed to sit on the main floor with the Anglos. [Exhibit
8 524 (Archuleta at 3); Exhibit 545 (Rios at 3)]

9 **1409.** Mexican Americans were not allowed to swim in the public pool on
10 the Anglo side of town except for once a week; the day before the pool was to be drained.
11 [Exhibit 545 (Rios at 3)]

12 **1410.** The historical impact of de jure segregation is still apparent today by
13 de facto segregation. [Exhibit 545 (Rios at 3)] There is a clear division between Latino
14 and minority neighborhoods and predominantly Anglo neighborhoods. [Exhibit 524
15 (Archuleta at 3)]

16 **1411.** Pete Rios remembers employment discrimination against his dad,
17 who worked at the copper mines and was paid a lower wage because he was Mexican.
18 [Exhibit 545 (Rios at 3)]

19 **1412.** Predominantly low wage service industries surround traditional
20 Latino and minority neighborhoods and little effort is made to economically revitalize the
21 area. [Exhibit 524 (Archuleta at 3)] The area is marked with vacant buildings and a
22 stigma perpetuated by realtors of being a poor location in which to live or invest.
23 [Exhibit 524 (Archuleta at 3)]

24 **1413.** The most intimidating election practice has been Proposition 200
25 itself. [Exhibit 524 (Archuleta at 4)] Proposition 200 has proven to be an intimidating
26 law preventing minorities from voting. [Exhibit 524 (Archuleta at 4)] Latinos and

1 Native American citizens not born in hospitals with no birth certificate and lacking other
2 forms of identification have been precluded from voting. [Exhibit 524 (Archuleta at 4);
3 Exhibit 545 (Rios at 5)]

4 **1414.** There is credible evidence to support the assertion that Latinos are
5 less likely to pay for a replacement license when they move to comply with Proposition
6 200 identification requirements. [Exhibit 545 (Rios at 5-6)]

7 **1415.** Latinos are also less likely to cure a conditional provisional ballot
8 because the economic costs involved make it not financially feasible for many Latinos.
9 [Exhibit 545 (Rios at 6)]

10 **1416.** Latinos are less likely to register a second time if they are rejected for
11 lack of proof for citizenship. [Exhibit 545 (Rios at 6)] Many Latino citizens are suspect
12 of government bureaucracies and are afraid to attempt a second registration. [Exhibit 545
13 (Rios at 6)]

14 **1417.** Some Latino elected officials believe that the intent of Proposition
15 200 is to reduce the Latino turnout. [Exhibit 545 (Rios at 7)]

16 **1418.** Registered Latino voters feel intimidated at the polls and often leave
17 before casting their votes. [Exhibit 524 (Archuleta at 4); Exhibit 533 (Gutierrez at 3);
18 Exhibit 545 (Rios at 3)] Latinos are alienated from the voting process because of the
19 identification requirements imposed at the polls that cause poll workers to question
20 identification cards that do not match voter roll addresses. [Exhibit 524 (Archuleta at 4);
21 Exhibit 545 (Rios at 3)].

22 **1419.** There were threats of the literacy tests in Arizona hanging over the
23 heads of Latino voters and specific efforts by certain GOP operatives to target certain
24 communities and precincts and engage in a systematic effort to intimidate and
25 disenfranchise Latino and African American voters through the 1970s, even until the
26 1980s. [Exhibit 533 (Gutierrez at 3)] Voters were threatened in the polling place that

1 they would have to read the Constitution, or if they could not read they could not vote,
2 which caused Latinos to choose not to vote. [Exhibit 533 (Gutierrez at 3); Exhibit 545
3 (Rios at 5)]

4 **1420.** It was once commonplace to fail to provide bilingual assistance to
5 voters and today there are many instances in which poll workers refuse to assist Spanish
6 speaking voters. [Exhibit 533 (Gutierrez at 3-4)] Recent efforts to encourage older, non-
7 English speaking Latino voters to participate have centered on absentee voting because
8 voting by mail which is less intimidating than voting in person. [Exhibit 545 (Rios at 3-
9 4)]

10 **1421.** In some communities the history of disenfranchisement has been
11 prevalent enough that there were no Latino election officials and it remains very difficult
12 to get Spanish speakers to participate as poll workers to this day. [Exhibit 524 (Archuleta
13 at 3); Exhibit 533 (Gutierrez at 4)]

14 **1422.** In the voting context, there are areas of Coconino County, the City of
15 Flagstaff, and the state that exhibit racially polarized voting, utilize racial appeals, and
16 other methods that hinder the ability of Latinos to exercise their voting rights. [Exhibit
17 524 (Archuleta at 3); Exhibit 533 (Gutierrez at 4); Exhibit 545 (Rios at 4)] Statewide it
18 would be extremely difficult for a Latino to be elected with the current demographics and
19 the extent of racially polarized voting. [Exhibit 524 (Archuleta at 3); Gutierrez at 4;
20 Exhibit 545 (Rios at 4)]

21 **1423.** Anglo voters support Anglo candidates and if a Latino attempted to
22 run for office in a predominantly Anglo district, it would be extremely difficult for a
23 minority candidate to garner the Anglo vote. [Exhibit 524 (Archuleta at 3); Exhibit 533
24 (Gutierrez at 4); Exhibit 545 (Rios at 4)]

25 **1424.** As the Latino population grows in Arizona, it is unquestionable that
26 there has been a backlash against Hispanic candidates. [Exhibit 533 (Gutierrez at 4)]

1 **1425.** Historically, slating has been a practice used to exclude minority
2 candidates in Arizona. [Exhibit 533 (Gutierrez at 5)] Presently, there are Hispanic slates,
3 but only in minority communities. [Exhibit 533 (Gutierrez at 5)]

4 **1426.** Racial appeals are prevalent throughout Arizona, especially in the
5 context of immigration. [Exhibit 524 (Archuleta at 3); Exhibit 533 (Gutierrez at 5);
6 Exhibit 545 (Rios at 4)] It was clear statewide that messages that led to the passage of
7 Proposition 200 were aimed at Latinos. [Exhibit 524 (Archuleta at 3)] The materials and
8 messages proposed by the proponents of Proposition 200 created a negative perception of
9 Latinos and a polarization between recent immigrants and U.S. born citizens, especially
10 Anglos. [Exhibit 524 (Archuleta at 3)]

11 **1427.** In the 1970's and 1980's, volunteers campaigning for a minority
12 candidate received hostile reactions from residents of Anglo neighborhoods. [Exhibit
13 533 (Gutierrez at 5)] This is still largely true today. [Exhibit 533 (Gutierrez at 5)]

14 **1428.** Latino Elected officials believe the State Legislature has been
15 unresponsive to the needs of the Latino community. [Exhibit 533 (Gutierrez at 6);
16 Exhibit 545 (Rios at 5)] The Legislature has refused to fund English Language Learners
17 and as a result there is an increasing trend by schools to segregate English Language
18 Learners, mostly Latinos, from Anglo students. [Exhibit 533 (Gutierrez at 6)]

19 **1429.**

20 **1430.**

21 **1431.** Proponents of Proposition 200 have ties to white supremacists and
22 have expressed racial animus. [Exhibit 501]

23 **C. Newspaper Accounts of Voter Suppression in Arizona**

24 **1432.** Republican challengers went to polling places, particularly in
25 minority-dominated precincts, in Maricopa and Pima Counties in the 1956 election to
26 challenge voters on their ability to read and interpret parts of the Constitution. [Exhibit

1 501 (Gene McLain, "Fight Erupts at South Side Precinct," *Arizona Republic*, Nov. 7,
2 1962, p. 1, 11)]

3 **1433.** In the November 4, 1958 election, Republican challengers were sent
4 to 90% of the polling places in Maricopa County. Prior to the election, the Republican
5 Party sent campaign material to 18,000 registered Democrats at their addresses of
6 registration. Those for whom the material was returned were added to "challenge lists,"
7 which the challengers took with them to the polls. Voters were also challenged on their
8 ability to read the preamble to the Constitution. [Exhibit 501 ("Some GOP Vote
9 Challengers Face Criminal Charges for Holding Posts," *Arizona Republic*, Nov. 5, 1958,
10 p. 4)]

11 **1434.** This practice of challenging minority voters continued in the 1962
12 election, and even caused at least one fight between a Republican challenger and a
13 Democratic party representative. [Exhibit 501 (Gene McLain, "Fight Erupts at South
14 Side Precinct," *Arizona Republic*, Nov. 7, 1962, p. 1, 11)]

15 **1435.** Republican vote challengers employed a program called "Operation
16 Eagle Eye" in Arizona in the 1964 general election. This program was a coordinated
17 effort to challenge votes of those on the challenge lists, as well as minority voters, by
18 asking them to read portions of the Constitution or by asking them personal questions.
19 Several witnesses identified Chief Justice Rehnquist as a participant in Operation Eagle
20 Eye, and stated that he used harassment and intimidation to discourage minority voters
21 from exercising their right to vote. [Exhibit 501 (Fred P. Graham, "2 Negroes from
22 Phoenix, Ariz. Say Rehnquist Harassed Blacks at Polls in 1964," *The New York Times*,
23 Nov 16., 1971, p. 32; Fred. P. Graham, "Rehnquist Role in Election Confirmed," *The*
24 *New York Times*, Nov. 13, 1971, p. 37; "Excerpts from Questioning of Rehnquist in the
25 Senate Judiciary Committee," *The New York Times*, July 31, 1986, A14)]

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D. There Is No Evidence of Voter Fraud in Arizona

1436. County election officials believe that signature verification is sufficient to prevent fraud. [Exhibit 517 (Rodriguez vol. 1 75:17-20); Exhibit 518 (Rodriguez vol. 2 151:20-152:1; Exhibit 508 (Hoyos 43:14-21); Exhibit 514 (Pew 19:5-7); Exhibit 507 (Hansen 71:21-24); Exhibit 504 (Dastrup 28:23-29:1); Exhibit 509 (Justman 35:10-23)]

1437. There have been no cases of voter impersonation fraud in Pinal County in the last twenty-five years. [Exhibit 508 (Hoyos 40:3-9)]

1438. No non-citizens have registered to vote in Apache, Coconino or Navajo Counties since January 1, 1996. [Exhibit 510 (Johnson 11:10-20); Exhibit 507 (Hansen 86:16-21); Exhibit 509 (Justman 11:15-19)]

1439. County election officials acknowledge that not many of the registrations rejected for lack of proof of citizenship were for individuals born outside the United States. [Exhibit 512 (Osborne vol. 1 22:11-24)]

1440. Yavapai County has not had an instance of voter fraud in the ten years that County Recorder Ana Wayman-Trujillo has worked for Yavapai County. [Exhibit 521 (Wayman-Trujillo 29)]

1441. The Counties have had no experience with voter impersonation fraud at the polls. [Exhibit 508 (Hoyos 40)]

XIII. PROPOSITION 200 IS NOT NARROWLY TAILORED TO ACHIEVE ITS ENDS

1442. The Driver’s License Is the Most Widely Used Proof of Citizenship But Does Not Prove Citizenship

1443. The Arizona Motor Vehicles Division refers to anyone who has business relating to motor vehicles or driving as a customer. [Exhibit 506 (Cindy Gage, January 10, 2008, “Gage” 12:2-6)]

1 **1444.** The Arizona Motor Vehicles Division utilizes a database regarding
2 information on customers. [Exhibit 506 (Gage 11: 6-16)]

3 **1445.** The Motor Vehicles Division assigns each customer conducting
4 business a customer record that is a sequential number. [Exhibit 506 (Gage 12:21-13-3;
5 31: 8-11)]

6 **1446.** After an individual is assigned a record, that record is used for all
7 future transactions with the same customer. [Exhibit 506 (Gage 14:19-25)]

8 **1447.** Contents of a customer base record include the driver’s full name,
9 date of birth, physical description, any restrictions, endorsements, and relevant addresses,
10 voter information and party affiliation. [Exhibit 506 (Gage 15:4-7; 16:2-5; 27:20-23)]

11 **1448.** In addition to the base record, a customer record includes “child
12 segments.” [Exhibit 506 (Gage 16: 12-21)]

13 **1449.** These “child segments” include the prior license segment; a
14 conviction segment; a comment segment, a warrant statement, a driver improvement
15 segment, a traffic survival school segment, a financial responsibility segment, a traffic
16 complaint segment, a permit segment, a commercial driver accident segment, an also
17 known as segment, a nonresident violator suspension segment, a dishonored check
18 segments, a medical review segment, a commercial driver medical segment, and a
19 customer characteristic segment. [Exhibit 506 (Gage 17:2-10)]

20 **1450.** Information related to the type of license a customer would have is
21 contained in the base record. [Exhibit 506 (Gage 17:11-17)]

22 **1451.** All information related to whether a customer had a type F license
23 would be contained in the base record. [Exhibit 506 (Gage 17:18 – 18:6)]

24 **1452.** The information about the F license includes information about
25 whether the license is an original or a duplicate. [Exhibit 506 (Gage 57: 22-58:10)]
26

1 **1453.** The Motor Vehicles Division database interacts with the Social
2 Security Administration to verify Social Security numbers and the Arizona Secretary of
3 State for voter records. [Exhibit 506 (Gage 19:2-4)]

4 **1454.** When a customer comes in for an original license the Motor Vehicles
5 Division will input the customer's name, the date of birth, the Social Security number.
6 The information then goes to the Social Security Administration and verifies that name
7 and date of birth and everything matches, then the Motor Vehicles Division will issue the
8 license. [Exhibit 506 (Gage 22: 14-18)]

9 **1455.** If a new base record is created that indicates that the person
10 registered to vote through the Motor Vehicles Division, that information and an
11 electronic signature is sent as part of a nightly file that goes to the Secretary of State's
12 office. [Exhibit 506 (Gage 27:17-28:5)]

13 **1456.** The Department of Homeland Security nor any of the federal
14 immigration agencies can update the customer record in the Motor Vehicles Division
15 database. [Exhibit 506 (Gage 54: 22-25)]

16 **1457.** Arizona began issuing extended licenses in 1993. [Exhibit 506
17 (Gage 62: 2-5)]

18 **1458.** Arizona was not issuing type F licenses in 1995. [Exhibit 506 (Gage
19 63:1-3)]

20 **1459.** There is nothing on the face of an Arizona driver license that
21 indicates that it is a type F license. [Exhibit 506 (Gage 90: 7-11)]

22 **1460.** Motor Vehicles Division customer records do not contain any
23 information as to whether a customer is a U.S. Citizen. [Exhibit 506 (Gage 86:25-87:4;
24 82:14- 86:24)]

25
26

1 **1461.** The Motor Vehicles Division has no procedures to update the
2 customer database to reflect that someone became a naturalized citizen. [Exhibit 506
3 (Gage 90:12-15)]

4 **1462.** At some point immigration related information is purged from the
5 system. [Exhibit 506 (Gage 94:7-13)]

6 **B. County Officials Agree That Subjecting Conditional Provisional Ballots
7 to Signature Verification Is Not a Burden to Them**

8 **1463.** The Counties use a signature verification process to verify
9 provisional ballots, which county election officials consider to be adequate to prevent
10 voter fraud. [Exhibit 508 (Hoyos 44); Exhibit 514 (Pew 18-19); Exhibit 521 (Wayman-
11 Trujillo 110, 113)]

12 **1464.** County election officials do not believe that it would be a significant
13 burden to treat conditional provisional ballots like provisional ballots and verify a voter's
14 signature by comparing it with the voter's signature on the voter rolls. [Exhibit 508
15 (Hoyos 49); Exhibit 521 (Wayman-Trujillo 125)]

16 **1465.** Some Counties suggested that signature verification be used as
17 another form of identification, but the Secretary of State rejected this suggestion.
18 [Exhibits 328, 496-498]

19 **1466.** In addition to the voter roll data, Dr. Lanier used scanned copies of
20 rejected voter registration forms for his analyses.

21 **1467.** These forms were provided in a format that is not useable for
22 statistical analysis. Therefore, a professional data entry firm was contracted to enter these
23 handwritten registration forms into a useable electronic dataset. Given the timing of the
24 production of these forms by defendants, it was impossible to complete the task of
25 manually entering the data prior to the due date for this report. The rejected voter
26

1 registration forms data project is due to be completed in late January, after which point I
2 plan to supplement this report with further analysis of the rejected voter forms.

3 **1468.** Dr. Louis R. Lanier conducted a statistical study to determine: (a) if
4 the implementation of Proposition 200 (Prop 200) in January 2005 had any effect on the
5 monthly flow of Hispanic and non-Hispanic voter registrations in the State; (b) if Prop
6 200 had any differential effect on Hispanic registrants versus non-Hispanic registrants;
7 and (c) if Arizona voter registrations have completely recovered from any effect Prop 200
8 may have had on the flow of voter registrations since its implementation. [Expert Report
9 of Dr. Louis R. Lanier 2, January 4, 2008 (“Lanier Report”)]

10 **1469.** Based on his study, Dr. Lanier concluded that the implementation of
11 Prop 200 in January 2005 is correlated with a fall in both Hispanic and non-Hispanic
12 voter registrations. [Lanier Report 3]

13 **1470.** Based on his study, Dr. Lanier concluded that the fall in Hispanic
14 voter registrations was more severe than the fall in non-Hispanic voter registrations.
15 [Lanier Report 3]

16 **1471.** Based on his study, Dr. Lanier concluded that neither Hispanic nor
17 non-Hispanic voter registrations have recovered to levels that would have been predicted,
18 given pre-Prop 200 trends. [Lanier Report 3]

19 **1472.** Based on his study, Dr. Lanier concluded that Hispanic voter
20 registrations remain further below predicted levels than non-Hispanic voter registrations
21 in the time since Prop 200 was implemented. [Lanier Report 3]

22 **1473.** For the purposes of his report, Dr. Lanier assumed that relative trends
23 in Hispanic and non-Hispanic voting-age populations were the same after the
24 implementation of Prop 200 as they were immediately prior to its implementation.
25 [Lanier Report 3]

26

1 **1474.** Dr. Lanier used two datasets from January 1, 2000 to June 30, 2007
2 in his analyses. [Lanier Report 3]

3 **1475.** The first data set Dr. Lanier used is the Arizona voter rolls electronic
4 dataset, which contains records of voter registrations for a time period ending in August
5 2007. [Lanier Report 3]

6 **1476.** The second is an electronic Excel file used by the Census Bureau
7 containing Hispanic surnames, classified by their likelihoods of representing an Hispanic
8 individual. This surname file was merged with the voter rolls dataset by surname.
9 [Lanier Report 3]

10 **1477.** Dr. Lanier considered an individual registrant to be Hispanic if
11 his/her surname is classified as “Heavily Hispanic” or “Generally Hispanic”—the two
12 classifications having the highest likelihood of representing an Hispanic individual.
13 [Lanier Report 3]

14 **1478.** Dr. Lanier used statistical regression models to provide the answers
15 to the following questions of interest: (a) whether Prop 200 affected the amount of voter
16 registrations in the State of Arizona, and, if so, was the effect the same for Hispanics and
17 non-Hispanics, and (b) whether voter registrations recovered to levels that would have
18 been predicted, given pre-Prop 200 trends. [Lanier Report 4]

19 **1479.** According to Dr. Lanier, for the purposes of the regression analyses,
20 the voter roll dataset was converted to a panel of monthly observations, by county, where
21 each observation contains the total number of registrations in the given county in the
22 given month. Therefore, each observation in each regression is a county-month, and the
23 variable being explained (the dependent variable) is the number of registrations. Since
24 there are 15 Counties in Arizona, and the analyses cover 90 months (January 2000 to
25 June 2007), approximately 1,350 (15x90) observations are in each regression. [Lanier
26 Report 4]

1 **1480.** Dr. Lanier used a statistical regression model to isolate the effect of
2 Prop 200 from other cyclical and county-level factors. [Lanier Report 5]

3 **1481.** According to Dr. Lanier, by including a Prop 200 variable, as well as
4 other explanatory factors in the model, the regression measures any correlation between
5 the implementation of Prop 200 and voter registrations, after accounting for the effects of
6 the other explanatory factors, known as control variables. [Lanier Report 5]

7 **1482.** The control variables employed by Dr. Lanier are:

- 8 ? a set month binary (dummy) variables to account for monthly variation in
9 registrations associated with the times of the year in which elections take
10 place;
- 11 ? a set of even-year dummy variables to account for the effects of bi-annual
12 elections;
- 13 ? a set of presidential election year dummy variables to account for the effect
14 of presidential election years;
- 15 ? a set of county dummy variables to account for county-specific variation in
16 voter registrations;
- 17 ? and a time trend to account for the general trend in voter registrations,
18 adjusted for the cyclical and county-level effects above. [Lanier Report 5]

19 **1483.** Dr. Lanier performed this regression for Hispanic registrations, non-
20 Hispanic registrations, and all registrations. [Lanier Report 5]

21 **1484.** In all cases, Dr. Lanier found a statistically significant negative effect
22 on registrations associated with the implementation of Prop 200. [Lanier Report 5]

23 **1485.** Specifically, Hispanic registrations were 80.1 percent lower, on
24 average, over the post-Prop 200 time period, while non-Hispanic registrations averaged
25 61.6 percent lower. [Lanier Report 5]

26 **1486.** According to Dr. Lanier, the 18.5 percent difference between the
Hispanic and non-Hispanic experiences is statistically significant at 5.1 standard
deviations. [Lanier Report 5-6]

1 **1487.** According to Dr. Lanier the number of “standard deviations”
2 indicates the statistical significance of the results of the analysis. Standard deviations of
3 approximately 2 or greater are considered statistically significant, representing a five
4 percent level of probability (1 in 20) that the tested result occurred by chance. [Lanier
5 Report 6]

6 **1488.** Courts have also adopted the two standard deviations rule for
7 determining if a result is statistically significant. [Lanier Report 6]

8 **1489.** According to the regression performed by Dr. Lanier, the effect of
9 Prop 200 was to lower Hispanic registrations by approximately 164 out of an average of
10 205 Hispanic registrations (80.1%) in the average county in an average month. Non-
11 Hispanic registrations were lowered by approximately 773 out of 1,255 non-Hispanic
12 registrations (61.6%) in the average county in an average month. [Lanier Report 5]

13 **1490.** Dr. Lanier uses a second statistical regression model to predict what
14 voter registrations would have been in the absence of Prop 200, based on trends just prior
15 to Prop 200’s implementation. [Lanier Report 6]

16 **1491.** The only difference between this regression and the one described
17 directly above is that this one was performed only on the pre-Prop 200 time period,
18 January 1, 2000 to December 31, 2004. Therefore, a Prop 200 effect is not being
19 measured. Instead, the estimates from this second regression are used to predict what
20 monthly registration totals would have been in Arizona during the post-Prop 200 time
21 period, January 1, 2005 to June 30, 2007. [Lanier Report 6]

22 **1492.** This analysis is performed by Dr. Lanier for Hispanics and non-
23 Hispanics. [Lanier Report 6]

24 **1493.** The results of Dr. Lanier’s analysis show that, from January 2005 to
25 June 2007, 99,281 Hispanic voters registered statewide, while 162,900 Hispanic
26 registrations would have been predicted during this time period, based on trends prior to

1 Prop 200. Hispanic registrations in the post-Prop 200 time period were approximately 61
2 percent (99,281 / 162,900) of what would have been predicted in the absence of Prop
3 200. [Lanier Report 6]

4 **1494.** The results of Dr. Lanier’s analysis show that, from January 2005 to
5 June 2007, actual non-Hispanic registrations numbered 615,815, while the predicted
6 number of non-Hispanic registrations would have been 918,585. Post-Prop 200 non-
7 Hispanic registrations were 67 percent (615,815 / 918,585) of the predicted level in the
8 absence of Prop 200. [Lanier Report 6]

9 **1495.** According to Dr. Lanier, the fact that Hispanic registrations were six
10 percent lower (67% - 61%) relative to trend than non-Hispanic registrations is further
11 evidence that Hispanics were disproportionately affected by Prop 200. [Lanier Report 7]

12 **1496.** This six percent difference is statistically significant at 47.9 standard
13 deviations. [Lanier Report 7]

14 **1497.** Dr. Lanier also performed this analysis for the time period ending
15 April 2007. As large-scale efforts were made by a private organization beginning in May
16 2007 to register Hispanic voters, resulting in an spike in Hispanic registrations from May
17 to July 2007, according to Dr. Lanier it makes sense to treat that time period as an
18 “outlier,” ending the analysis in April 2007. [Lanier Report 7]

19 **1498.** According to the results of Dr. Lanier’s analysis, the difference
20 between Hispanics and non-Hispanics is exacerbated by the exclusion of May and June
21 2007. [Lanier Report 7]

22 **1499.** Specifically, Hispanic post-Prop 200 registrations were 57.6 percent
23 of what would have been predicted, while non-Hispanic post-Prop 200 registrations were
24 66.1 percent of predicted. [Lanier Report 7]

25 **1500.** This 8.5 percent difference between Hispanics and non-Hispanics is
26 statistically significant at 64.1 standard deviations. [Lanier Report 7]

1 **1501.** When analyzing the differences between actual and predicted
2 registrations in the post-Prop 200 time period for Hispanic and non-Hispanic registrants,
3 respectively, Dr. Lanier found that actual registrations after January 2005 are consistently
4 below predicted values. [Lanier Report 7]

5 **1502.** According to Dr.Lanier, in the case of Hispanics, the monthly flow of
6 registrations slightly surpassed the predicted flow in the May 2007 to June 2007 time
7 period. This spike in registrations is coincident with the large-scale private efforts
8 mentioned earlier. [Lanier Report 8]

9 **1503.** According to Dr. Lanier, this situation does not represent a full
10 recovery and appears to have been temporary. [Lanier Report 8]

11 **1504.** As of August 2007, monthly Hispanic registrations were back down
12 to less than half of the predicted value (3,625 actual, versus 8,625 predicted) . [Lanier
13 Report 8]

14 **1505.** In addition to the voter roll data, Dr. Lanier performed analyses on
15 data based o scanned copies of rejected voter registration forms for fourteen of the fifteen
16 Arizona Counties. [Lanier Report 4]

17 **1506.** Arizona Counties produced only voter registration forms that were
18 rejected due to the provisions of Prop 200. [Fourth Supplemental Report of Dr. Louis R.
19 Lanier 3, May 9, 2008 (“Lanier Fourth Supplemental Report”)]

20 **1507.** Santa Cruz County did not produce rejected voter forms. [Lanier
21 Fourth Supplemental Report 3]

22 **1508.** The rejected voter forms submitted by Yuma County were
23 incomplete, and therefore Dr. Lanier’s analyses only partially reflects the situation in
24 Yuma County, with the earliest rejected ballot dated February 2007. [First Supplemental
25 Report of Dr. Louis R. Lanier 2, March 21, 2008 (“Lanier First Supplemental Report”)]
26

1 **1509.** The total number of rejected forms from the fourteen Counties
2 (excluding Santa Cruz) as of the fall 2007 (the end of the data produced by defendants)
3 was 38,359. [Lanier Fourth Supplemental Report 2-3]

4 **1510.** Of these, 6,809 were dropped for the purposes of analysis because of:
5 duplicate forms, blank names, missing information or a “No” in the U.S. citizenship field,
6 or a registration date prior to January 1, 2005. [Lanier Fourth Supplemental Report 3]

7 **1511.** Therefore, the total number of rejected voters in Dr. Lanier’s
8 analyses is 31,550. [Lanier Fourth Supplemental Report 3]

9 **1512.** Approximately 79 percent of the rejections occurred after June 1,
10 2005. [Lanier Fourth Supplemental Report 3]

11 **1513.** Dr. Lanier’s analyzed the counts of registrants rejected for lack of
12 proof of citizenship in the time since Prop 200 became effective on January 1, 2005.
13 [Lanier Fourth Supplemental Report 3]

14 **1514.** According to Dr. Lanier, all fourteen Counties for which data are
15 available recorded rejections due to the provisions of Prop 200. [Lanier Fourth
16 Supplemental Report 3]

17 **1515.** According to the results of Dr. Lanier’s analyses, the large majority
18 of rejections were of non-Hispanic registration applicants. [Lanier Fourth Supplemental
19 Report 3]

20 **1516.** According to the results of Dr. Lanier’s analyses, among rejected
21 applicants, Hispanics were less likely than non-Hispanics to achieve success in a
22 subsequent attempt to register. [Lanier Fourth Supplemental Report 3]

23 **1517.** In total, Hispanics represented 19.8 percent of rejected applicants
24 who were ultimately unsuccessful, while they represented a lower 11.0 percent of those
25 who were subsequently able to register after initial rejection. [Lanier Fourth
26 Supplemental Report 3]

1 **1518.** According to the results of Dr. Lanier’s analyses, in the cases of
2 Hispanics and non-Hispanics among rejected registration applicants who reported a place
3 of birth inside the United States, a large majority of the rejected applicants in both groups
4 —86.6 percent of Hispanics and 92.9 percent of non-Hispanics—were reportedly U.S.-
5 born. [Lanier Fourth Supplemental Report 3]

6 **1519.** In order to approximate the number of voter registrants who would
7 have successfully registered to vote in Arizona after January 1, 2005 in the absence of
8 Prop 200, Dr. Lanier combined the rejected voter data with voters from the Arizona voter
9 roll data who registered after January 1, 2005. [Lanier Fourth Supplemental Report 3-4]

10 **1520.** According to Dr. Lanier, the combination of these two datasets
11 creates a universe of individuals who, in the absence of Prop 200, would have been
12 allowed to register. [Lanier Fourth Supplemental Report 4]

13 **1521.** Dr. Lanier used the combination of these datasets to analyze: the
14 numbers of individuals who registered, or attempted to register and were denied due to
15 Prop 200, after January 1, 2005, by county; the percent Hispanic, by county, among all
16 registration applicants after January 1, 2005; among all rejected applicants, regardless of
17 the ultimate registration outcome; among those applicants who successfully registered
18 after January 1, 2005; and among those who were ultimately rejected due to Prop 200.
19 [Lanier Fourth Supplemental Report 4]

20 **1522.** Based on his analyses, Dr. Lanier concluded that statewide, Hispanic
21 representation among rejected applicants was 2.8 percent higher than Hispanic
22 representation among all registration applicants, indicating that Hispanics were
23 disproportionately rejected relative to their representation among all applicants. [Lanier
24 Fourth Supplemental Report 4]

25 **1523.** Based on his analyses, Dr. Lanier concluded that the percent
26 Hispanic among those who were rejected and ultimately unsuccessful at registering was

1 6.1 points higher than the percent Hispanic among all successful registrants, indicating
2 that Hispanics were disproportionately unsuccessful at registering relative to their
3 representation among successful registrants. [Lanier Fourth Supplemental Report 4]

4 **1524.** Dr. Lanier used two sets of comparisons to demographic and socio-
5 economic Census 2000 data, one which addresses the registration applicants with rejected
6 registration forms, and a second looks at voters who cast uncounted conditional
7 provisional ballots. Like the rejected voter forms, these uncounted ballots represent a
8 group of potential voters who were affected by Prop 200. [Lanier Fourth Supplemental
9 Report 4-5]

10 **1525.** All fifteen Arizona Counties produced uncounted ballot envelopes,
11 and 11.0 percent of these uncounted ballot envelopes were from Hispanic individuals.
12 [Lanier Fourth Supplemental Report 4-5]

13 **1526.** Hispanic representation among voters registered in Arizona as of
14 September 2007 is 12.3 percent. [Lanier Fourth Supplemental Report 4]

15 **1527.** From his analyses, Dr. Lanier concluded that Hispanic rejected
16 registration applicants and uncounted conditional provisional ballots come from areas of
17 Arizona where the population is less likely to speak English well, possesses less
18 schooling, and earns a lower household income than the averages for the state. [Lanier
19 Fourth Supplemental Report 5]

20 **1528.** Based on the statistics presented in Dr. Lanier's report, he concluded
21 that Prop 200 led to 38,359 rejected registrations in the fourteen Counties for which data
22 are available, the large majority of which are non-Hispanic. [Lanier Fourth Supplemental
23 Report 6]

24 **1529.** Based on the statistics presented in Dr. Lanier's report, he concluded
25 that of those registration applicants who were rejected due to Prop 200, Hispanics were
26

1 less likely than non-Hispanics to successfully register after the rejection. [Lanier Fourth
2 Supplemental Report 6]

3 **1530.** Based on the statistics presented in Dr. Lanier's report, he concluded
4 that a large majority of both Hispanic (86.6%) and non-Hispanic (92.9%) registration
5 applicants who were rejected due to Prop 200 reported being born in the U.S. [Lanier
6 Fourth Supplemental Report 6]

7 **1531.** Based on the statistics presented in Dr. Lanier's report, he concluded
8 that Hispanics were more likely to have their registration applications rejected relative to
9 their representation among all registration applicants. [Lanier Fourth Supplemental
10 Report 6]

11 **1532.** Based on the statistics presented in Dr. Lanier's report, he concluded
12 that Hispanics were more likely to be ultimately unsuccessful in their attempts to register
13 relative to their representation among successful registrants. [Lanier Fourth
14 Supplemental Report 6]

15 **1533.** Based on the statistics presented in Dr. Lanier's report, he concluded
16 that Hispanic rejected registration applicants and uncounted conditional provisional
17 ballots come from areas of Arizona where the population is: less likely to speak English
18 well; less educated; poorer; and more highly Hispanic in makeup. [Lanier Fourth
19 Supplemental Report 6]

20 **1534.** Based on the statistics presented in Dr. Lanier's report, he concluded
21 that Hispanic rejected registration applicants are from areas that are more likely to use
22 public transportation and more urban than statewide averages, while Hispanic uncounted
23 conditional provisional ballots are from areas that are less likely to use public
24 transportation and more rural than statewide averages. [Lanier Fourth Supplemental
25 Report 6]

26

1 **1535.** The Maricopa County Elections Director testified in her deposition
2 that she recalled only two people who said they had been told they were eligible to vote
3 as non-citizens. [Exhibit 513 (Osborne Vol. 2 15:13-16:10); Exhibit 512 (Osborne Vol. 1
4 18:23-19:25)]

5 **1536.** The Maricopa County Elections Director testified in her deposition
6 that some U.S. citizens claim to be non-citizens in order to avoid jury service. [Exhibit
7 513 (Osborne Vol. 2 91:4-9)]

8 **1537.** The Maricopa County elections Director testified in her deposition
9 that many of these applications were rejected because they had bad addresses and “There
10 is everything that could make a form unacceptable on there.” [Exhibit 513 (Osborne Vol.
11 2 11:9-14)]

12 **1538.** Not all naturalization certificates have an alien registration number
13 on them. [Herta Weber exhibit]

14 **1539.** Counsel for Maricopa County also wrote in 2007 that the registration
15 applications in this drive were rejected “for a range of problems – illegible, incomplete,
16 bad address and no proof of citizenship.” [Exhibit #]

17 **1540.** According to Dr. F. Arturo Rosales, the history of Mexican origin
18 people in the State of Arizona has been characterized by racial and ethnic repression.
19 [Expert Report of Dr. F. Arturo Rosales 1, March 7, 2008 (“Rosales Report”)]

20 **1541.** Approximately 1,600,000 Hispanics live in the state of Arizona out
21 of a total population of six million-over 90 percent of this Hispanic grouping is of
22 Mexican descent. [Rosales Report 3]

23 **1542.** The dramatic increase in the Hispanic population reflects the overall
24 growth trend of the state. [Rosales Report 3]

25 **1543.** Arizona was part of the vast area ceded to the United States by
26 Mexico after that nation lost the Mexican American War. [Rosales Report 3]

1 **1544.** The Treaty of Guadalupe Hidalgo, signed at the end of the war,
2 granted Mexicans who remained in United States territory the constitutional rights of
3 citizens and ostensibly protected their property, culture and religion, and gave them the
4 right to vote. [Rosales Report 3-4]

5 **1545.** The territorial acquisition delineated in the Treaty of Guadalupe
6 Hidalgo did not include the area that is now southern Arizona and southwestern New
7 Mexico, a region extending from present-day Yuma along the Gila River to the Mesilla
8 Valley, where Las Cruces, New Mexico is situated. [Rosales Report 4]

9 **1546.** General Antonio Lopez de Santa Anna sold this region to the United
10 States during his return to power in 1853. The Gadsden Treaty perimeters gave Mexicans
11 in the purchased territory the same rights provided by Treaty of Guadalupe Hidalgo. The
12 majority of Mexicans lived in the section of the agreement which pertains geographically
13 to Arizona in region in the valleys carved out by the Santa Cruz and the San Pedro
14 Rivers. [Rosales Report 4]

15 **1547.** While the Treaty of Guadalupe Hidalgo granted constitutional rights
16 to Mexicans who remained in the new political jurisdiction of the United States, most of
17 the guarantees were not upheld. [Rosales Report 4]

18 **1548.** As a result, the economic and political fortunes of Southwest
19 Mexicans declined considerably during their experience with United States rule.
20 [Rosales Report 4]

21 **1549.** Provisions in the Treaty of Guadalupe Hidalgo regarding land
22 holdings safeguarded Hispanic properties, but Southwest land values rose as the Anglo
23 population increased and as the area became more economically developed. As a result,
24 developers and Anglo farmers coveted Mexican property and intense land competition
25 followed. [Rosales Report 4]

26

1 **1550.** Thus, the divestment of property from Mexicans assumed wholesale
2 proportions throughout the 19th century. [Rosales Report 4]

3 **1551.** Even though all Mexican properties in the Gadsden Purchase were
4 purportedly protected by the same promises made regarding the protection of Mexican
5 properties in the Treaty of Guadalupe Hidalgo, the Gadsden Treaty made it more difficult
6 to confirm titles by stipulating that titles would be valid only if confirming evidence was
7 found in Mexican archives. [Rosales Report 4]

8 **1552.** By 1878, land speculators and squatters were defrauding Mexican
9 landowners of their property in clear violation of land protection clauses of the Treaty of
10 Guadalupe Hidalgo and the Gadsden Purchase Treaty. [Rosales Report 5]

11 **1553.** Between 1854 and 1878, Mexicans in Arizona lost thousands of acres
12 because titles which had been granted during the eras of Spanish or Mexican rule were
13 not honored. [Rosales Report 5]

14 **1554.** During the depression caused by the Panic of 1873 many Mexican
15 farmers in the Phoenix area lost their land after they were forced to flee when a banking
16 crisis resulted in riots throughout the country and a rash of Mexican lynchings took place.
17 [Rosales Report 5]

18 **1555.** Between 1870 and 1900 the number of Mexican farmers in Maricopa
19 County declined from seventy-nine to about thirty, even though the Mexican population
20 increased twelve-fold during that time. [Rosales Report 6]

21 **1556.** Another example of Mexican land loss was the take-over of large
22 tracts of irrigated properties in west Tempe by W. Wormser in the 1890s. Wormser, a
23 merchant, obtained a 7,000 acre farm south of the Salt River by foreclosing on a number
24 of Mexican farmers after they could not pay for seed, tools, and other supplies that were
25 advanced at an earlier date. According to Douglas Kupel, the City of Phoenix water
26

1 historian, Wormser purposely foreclosed so that he could seize the title to Mexican lands.
2 [Rosales Report 6]

3 **1557.** The federal government was also involved in the usurpation of
4 Mexicans' land. [Rosales Report 5]

5 **1558.** For example, in 1869, as the federal government prepared to expand
6 the Gila Indian Reservation, it surveyed the properties of homesteaders so they could be
7 compensated if their claims to the land were valid. Twenty farmers and speculators were
8 affected, seventeen of whom were Mexicans. The federal report described many of the
9 Mexicans as interlopers whose bids were not legitimate. The surveyors portrayed the
10 Anglos and Europeans, however, as more deserving. As a result most of the Mexican
11 claimants were disqualified from compensation. [Rosales Report 5]

12 **1559.** Mexicans also experienced a dilution of political and economic
13 power in Arizona as more Anglos moved into an industrializing Arizona. [Rosales
14 Report 6]

15 **1560.** Tucson became the territorial capital after Arizona separated from
16 New Mexico in 1863. According to Dr. Rosales, Anglos moved the capital to Prescott
17 because of the political power held by Mexicans in southern Arizona. [Rosales Report 6]

18 **1561.** Arizona legislators adopted constitutional codes that restricted
19 citizenship and electoral eligibility requirements, allowing only white males and white
20 Mexican males, a vast minority, to vote. This measure disqualified American Indians,
21 mestizos, and Mexican Indians from the electoral process. [Rosales Report 6]

22 **1562.** In 1877, legislators passed additional laws in which non whites were
23 disqualified from voting on the basis of race, and from serving as justices of the peace
24 and from practicing law. [Rosales Report 6-7]

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1 **1563.** Beginning in the 1880s, irrigation projects financed through the
2 Newlands Reclamation Act of 1903 expanded the acreage which could be cultivated.
3 These innovations stimulated the immigration of Mexican laborers. [Rosales Report 7]

4 **1564.** At the same time, modernization brought in a new influx of Anglos.
5 As a consequence of this demographic change, the antipathy Anglo Americans felt
6 toward Mexicans was exacerbated, increasing the incidence of discrimination and the
7 resistance to provide Mexicans with political influence and opportunity. [Rosales Report
8 7]

9 **1565.** In the first Legislative Assembly of Arizona after Arizona became an
10 independent territory from New Mexico, two out of nine council members were Mexican
11 Americans. By 1885, only one Mexican had been elected to the State Legislature.
12 [Rosales Report 7]

13 **1566.** In the early 20th century the U.S. Congress considered accepting a
14 bid in which both Arizona and New Mexico would enter the Union as one state. Arizona
15 politicians resisted the overture primarily because of the extensive Hispanic influence in
16 New Mexico. One congressman who opposed joint statehood with New Mexico stated:
17 “Can Arizona as a single state control it better by itself, or shall we join the Mexican
18 greasers [of New Mexico] to Arizona and let them control it?” [Rosales Report 8]

19 **1567.** According to Dr. Rosales, a form of anti-Hispanic sentiment formed
20 in the territory during this period as rumors spread that English would not be permitted in
21 schools or court. [Rosales Report 8]

22 **1568.** According to Dr. Rosales, after Arizona attained statehood in 1912,
23 Anglos waged an anti-immigrant campaign characterized by increasingly racist rhetoric
24 and a series of proposals restricting Mexican immigrants’ political rights and the right to
25 work in Arizona. [Rosales Report 9]

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1 **1569.** In 1912, the new Arizona constitution restricted non-citizens from
2 working on public projects. [Rosales Report 9]

3 **1570.** In 1914, the legislature enacted the “eighty per-cent law” which
4 stated that eighty percent of the employees in businesses that had five or more employees
5 had to be “native-born citizens of the United States.” [Rosales Report 9]

6 **1571.** After a U.S. District Court declared the “eighty per-cent law”
7 unconstitutional, the Arizona legislature passed the Claypool-Kinney bill, which
8 prohibited the employment of non-English speakers in the state’s mining industry. Dr.
9 Rosales stated that this was a deliberate attempt to circumvent the court decision which
10 declared the “eighty per-cent law” unlawful. [Rosales Report 9]

11 **1572.** During the same time period, a coalition of craft unions, small
12 farmers and merchants, led by Arizona Governor George Hunt, launched legislative
13 proposals that restricted Mexican Americans’ access to the ballot and the right to work in
14 Arizona. [Rosales Report 9]

15 **1573.** In 1909, Arizona voters passed a literacy law that explicitly targeted
16 Mexicans and disqualified non-English speakers from voting in state elections. [Rosales
17 Report 9]

18 **1574.** To address obstacles to full participation in the political process,
19 Mexican Americans in Arizona began forming community organizations, such as the
20 Latin American Clubs of Arizona, Inc. [Rosales Report 10]

21 **1575.** Anglos in Arizona, however, tried to block the efforts of such groups.
22 [Rosales Report 10]

23 **1576.** One example took place in South Tucson in the mid 1930’s. The
24 majority of South Tucson residents were Mexican or Mexican American, yet local
25 property-holders and entrepreneurs were mainly nonMexicans. The latter group led a
26 successful campaign to incorporate South Tucson as an independent municipality to

1 avoid annexation by the City of Tucson. Once South Tucson was incorporated, the Pima
2 County Board of Supervisors appointed five white property-holders to serve as the new
3 town's city council. [Rosales Report 10]

4 **1577.** In response, Mexican residents, with help from the Latin American
5 Club, organized a voter registration campaign with the goal of electing a majority
6 Mexican American city council in South Tucson's first election. Despite these efforts,
7 only one Mexican American was elected to the council. Dr. Rosales contends that the
8 literacy requirement coupled with a local property ownership requirement, excluded
9 many Mexican Americans from voting in the election. [Rosales Report 10]

10 **1578.** Voting restrictions against Mexican Americans in Arizona continued
11 throughout the 20th century. [Rosales Report 10]

12 **1579.** As late as 1966, literacy requirements and a sixth grade education
13 were preconditions to voter registration in Arizona, and such laws remained on the books
14 until 1972. [Rosales Report 10]

15 **1580.** In 1966, elaborate residency requirements for voter registration- such
16 as having to live one year in the state, six months in the same city, and thirty days in the
17 same precinct and county - confused many potential voters, including Mexican
18 Americans. [Rosales Report 10]

19 **1581.** In addition, potential voters were required to register at the county
20 recorder's office, which was only open during business hours, limiting access for many
21 working people. [Rosales Report 10]

22 **1582.** Many Arizona voters were prevented from casting ballots to vote
23 because they were purged from the rolls. When a voter failed to cast a ballot in a primary
24 and a general election, or if the voter did not vote in two consecutive elections, the state
25 purged their votes and did not subsequently inform the voter of the purge or of the need
26 to re-register. [Rosales Report 10]

1 **1583.** According to Dr. Rosales, the practice of purging had a
2 disproportionate effect on Hispanics and Native Americans voters. [Rosales Report 11]

3 **1584.** In 1964 for example, a national project called Operation “Eagle Eye,”
4 was designed in order to challenge the legality of a voter’s registration at the polling site.
5 [Rosales Report 11]

6 **1585.** Under Operation “Eagle Eye,” Arizona officials would mail letters to
7 all registered voters in South Phoenix, an area which was predominantly Hispanic and
8 African American, using the addresses from voter registration records. Returned letters
9 were then taken to the corresponding polling place on the date of the election. As voters
10 stood in line waiting to vote they were challenged on the grounds that they did not live at
11 the address listed in the voter rolls. [Rosales Report 11-12]

12 **1586.** Anglos would also approach Mexican Americans waiting in line to
13 vote, challenging them to read the U.S. Constitution or literacy cards. [Rosales Report
14 12]

15 **1587.** The U.S. Commission on Civil Rights noted that in November 1974,
16 south Phoenix polling sites had few, if any, bilingual workers and only one bilingual
17 election for eight heavily Mexican American precincts. [Rosales Report 12]

18 **1588.** The Commission noted that the inability of non-bilingual poll
19 workers to understand Spanish or find Spanish surnames was common in Mexican
20 American precincts and prohibited Mexican Americans from voting. [Rosales Report 12-
21 13]

22 **1589.** According to Dr. Rosales, Arizona voting practices affecting
23 Mexican Americans were not limited to registration and the polling place. [Rosales
24 Report 13]

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1 **1590.** For example, Dr. Rosales states that in the 1960's the State
2 Legislature's reapportionment of districts diluted the Mexican American vote. [Rosales
3 Report 13]

4 **1591.** Mexicans also faced racial discrimination in the Arizona justice
5 system during the 19th century. [Rosales Report 13]

6 **1592.** During the 19th century, few Mexicans served on juries, yet they
7 were disproportionately sentenced to jail and given longer sentences than their Anglo
8 counterparts. [Rosales Report 14]

9 **1593.** During the 19th century, Mexicans were hung by Anglo lynch mobs
10 without the benefit of a trial or representation. [Rosales Report 14]

11 **1594.** In 1872, Phoenix Sheriff T.C. Warden led local residents in
12 indiscriminately running Mexicans out of the city. [Rosales Report 14]

13 **1595.** According to Dr. Rosales, it was common in Arizona for Anglos not
14 to be subjected to charges of negligence in spite of supporting evidence. [Rosales Report
15 17]

16 **1596.** For example, in 1919 in Phoenix, a local man ran over a Mexican
17 pedestrian with his automobile, killing him. Witnesses stated that the driver was
18 speeding and did not slow down as the pedestrian crossed the road He was not cited by
19 Phoenix police. . [Rosales Report 17]

20 **1597.** According to Dr. Rosales, the discrimination against Latinos in the
21 Arizona judicial system has continued in recent years. [Rosales Report 17]

22 **1598.** In the late 1970's for example, two brothers and their father, all
23 members of a wealthy Anglo family, were accused of robbing and torturing three
24 Mexican farm workers who had entered the United States illegally. The three men
25 allegedly stripped and tortured the Mexicans with hot poker, burning cigarettes, knives,
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1 and a shotgun filled with bird seed. An all-Anglo jury acquitted the defendants. [Rosales
2 Report 17]

3 **1599.** According to Dr. Rosales, similar cases have occurred along the
4 border in Arizona. [Rosales Report 17]

5 **1600.** In 1900, the Arizona states legislature banned the celebration of the
6 Mexican Holiday of “Dia de San Juan.” [Rosales Report 15]

7 **1601.** In 1920, the Mexican consul issued a study which stated that between
8 1910 and 1920 at least twelve Mexicans were killed in arrest attempts, noting that most of
9 those police homicides could have been averted. [Rosales Report 15]

10 **1602.** According to Dr. Rosales, in the early 19th century capital
11 punishment was disproportionately applied to Mexicans. [Rosales Report 15]

12 **1603.** According to Dr. Rosales, police often employed questionable and
13 coercive interrogation tactics with Mexican detainees in the early 20th century. [Rosales
14 Report 16]

15 **1604.** One example occurred in Greaterville, Arizona, in 1915. Pima
16 County deputies visited the Leon family home to interrogate three brothers--Jose Maria,
17 Francisco, and Hilario--whom they suspected had murdered a local woman. The brothers
18 denied the accusations so the deputies attempted to coerce a confession by hanging them.
19 one brother died immediately, and the other two were left in the desert for twenty-one
20 hours. [Rosales Report 16]

21 **1605.** Dr. Rosales also contends that Mexicans were often the victims of
22 civilian mob violence in the early 20th century. [Rosales Report 16]

23 **1606.** In May of 1912, for example, when Anglo miners invaded a Cinco de
24 Mayo festival about 40 miles from Tucson. They attacked the Mexican workers and
25 destroyed the Mexican flags on display for the holiday. [Rosales Report 16-17]

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1 **1607.** In 1912, a group of Anglos in Phoenix, Arizona Anglos invaded
2 another Cinco de Mayo celebration, which sparked a riot in which both ethnic groups
3 suffered injuries. [Rosales Report 17]

4 **1608.** On July 4, 1913, Anglos tore down Mexican flags at the consulate
5 offices in Tucson and Douglas, Arizona. [Rosales Report 17]

6 **1609.** A Mexican government study of American civilian attacks on
7 Mexicans during the 1910s showed that out of 150 reported incidents documented by the
8 Consul, 36 took place in Arizona. [Rosales Report 17]

9 **1610.** In the 19th century and part of the 20th century, the racial segregation
10 of Mexicans in schools, public facilities, and housing was prevalent in Arizona. [Rosales
11 Report 18]

12 **1611.** In 1930, Phoenix had acquired the largest contiguous Mexican
13 neighborhood, where 8,000 Mexicans resided, in all of Arizona. [Rosales Report 19]

14 **1612.** According to a study by the Phoenix Housing Authority, as late as
15 1941 most Mexicans in south Phoenix were living in dire poverty. [Rosales Report 20]

16 **1613.** In 1941, the average income of Mexican families in Phoenix was
17 \$589 a year. [Rosales Report 20]

18 **1614.** According to a study by the Phoenix Housing Authority, 70 percent
19 of the Mexican homes in Phoenix were uninhabitable and lacked inside plumbing,
20 electricity, and adequate doors or windows. [Rosales Report 20]

21 **1615.** After World War II, Phoenix segregated Mexican American veterans
22 in separate housing units located on a former city dump. [Rosales Report 21]

23 **1616.** During the 1930s, Mexican Americans were segregated in federal
24 programs such as the Civilian Conservation Corps (CCC). [Rosales Report 21]

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1 **1617.** According to Dr. Rosales, the school segregation of Mexican
2 Americans in Arizona was particularly pervasive in Arizona mining towns during the first
3 decade of the 20th century. [Rosales Report 22]

4 **1618.** In the mining community of Clifton-Morenci, for example, students
5 attended four elementary schools segregated both internally and between schools.
6 [Rosales Report 22]

7 **1619.** Even when low attendance dictated that two Clifton-Morenci schools
8 merge to economize, the district continued to spend extra money to segregate the
9 Mexican and Anglo students. [Rosales Report 22]

10 **1620.** Similarly, in another mining community, Ray-Sonora, Mexican and
11 Anglo children attended separate schools even though their parents worked for the same
12 mining company. [Rosales Report 22]

13 **1621.** According to a 1916 U.S. Bureau of Education report that surveyed
14 427 rural school districts in Arizona, virtually all of schools in Arizona urban and rural
15 areas segregated Mexican children at some level. [Rosales Report 22]

16 **1622.** The 1916 Bureau study recommended that Arizona continue to
17 segregate Mexican school children. [Rosales Report 22]

18 **1623.** Dr. Rosales contends that Mexican parents who did not want their
19 children to attend segregated schools were faced with strictly enforced truancy laws,
20 which included penalties of fines and jail time. [Rosales Report 23]

21 **1624.** According to Dr. Rosales, even after Mexican parents began to
22 challenge school segregation successfully in court, most school districts failed to comply
23 with integration rulings, and the state neglected to enforce them. [Rosales Report 24]

24 **1625.** According to Dr. Rosales, language and pedagogical issues are still a
25 source of concern in the Mexican American community. [Rosales Report 23-24]

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1 **1626.** Until 1972, special educators in Guadalupe, Arizona administered IQ
2 tests written solely in English to Yaqui Indian and Mexican American children who
3 spoke little or no English. [Rosales Report 23-24]

4 **1627.** After the passage of the Equal Educational Opportunity Act in 1974,
5 Arizona established laws for English Language Learner (ELL) programs almost
6 immediately, but it was not until 1986 that the Arizona State Legislature established ELL
7 teacher qualifications and reporting requirements for school districts and required school
8 districts to provide special instruction for ELLs, and established . [Rosales Report 23-24]

9 **1628.** According to Dr. Rosales, the increasing number of ELLs coupled
10 with increased student accountability and lack of adequate state funding made it difficult
11 for Arizona school districts to comply with the state requirements. [Rosales Report 25]

12 **1629.** In January 2000, a federal judge held that Arizona was in violation of
13 the federal Equal Opportunity Act because its funding for ELL programs was arbitrary
14 and capricious. [Rosales Report 25]

15 **1630.** The state has not yet complied with the court's mandate to provide
16 adequate funding for ELL students. [Rosales Report 26]

17 **1631.** According to Dr. Rosales, before the Second World War, mainstream
18 unions did not accept many Mexican American workers. [Rosales Report 26]

19 **1632.** In the early 1900s Mexicans were recruited to come to Arizona to
20 work in agriculture after the development of the railroad, the Newlands Reclamation Act
21 of 1902 and the completion of the Roosevelt Dam in 1912 created an economic boom to
22 the agricultural output of the Valley. [Rosales Report 27]

23 **1633.** According to Dr. Rosales, while employers and legislators fought
24 strenuously for Mexican immigration, they felt that Mexicans should only be tolerated for
25 their physical labor in peripheral agricultural and mining camps and not afforded the
26 rights of citizens. [Rosales Report 27-28]

1 **1634.** According to Dr. Rosales, Mexican agricultural workers were often
2 the victims of workplace abuse, and their employers were not penalized. [Rosales Report
3 27-28]

4 **1635.** According to Dr. Rosales, in the early 1900s, Mexican Americans in
5 Arizona were also frequently subjected to wage discrimination, often being paid
6 substantially less than their Anglo counterparts. [Rosales Report 29]

7 **1636.** According to Dr. Rosales, there was a clear, multi-tiered, racialized
8 class structure in Arizona's mines in the early 1900s. [Rosales Report 29]

9 **1637.** In the Clifton Morenci-Metcalf mining district of southeastern
10 Arizona, ninety-four percent of native-born workers who were identified as "white"
11 earned three and a half dollars per hour or more in 1909. Immigrant groups identified by
12 the Immigration Service as "white" -primarily from North America and Northern Europe
13 earned comparable amounts. [Rosales Report 29]

14 **1638.** By contrast, ninety-three percent of Mexican mine workers earned
15 between one and a half and two and a half dollars, with less than one per cent earning
16 more than three and half dollars. [Rosales Report 29]

17 **1639.** According to Dr. Rosales, Mexican mine workers were
18 disproportionately subject to diseases such as consumption, or "black lung," that resulted
19 from substandard working conditions. [Rosales Report 29-30]

20 **1640.** When Mexican mine workers went on strike in 1903 to protest their
21 working conditions, the local police, the Arizona militia, and the Arizona Rangers
22 worked to repress them. Similar incidents occurred in Globe-Miami and Bisbee.
23 [Rosales Report 30].

24 **1641.** According to Dr. Rosales, in 1914 employers and local officials
25 conducted harassment campaigns to intimidate Mexican mine workers who attempted to
26 organize. [Rosales Report 30].

1 **1642.** According to Dr. Rosales, other forms of job discrimination were
2 also common in Arizona throughout the Depression and into the war years. [Rosales
3 Report 31].

4 **1643.** For example, in 1941 the constitution of the Brotherhood of
5 Locomotive Firemen and Enginemen in Tucson explicitly barred the promotion of non-
6 whites to positions such as firemen and brakemen. [Rosales Report 31].

7 **1644.** Employers with Tucson's Southern Pacific Railway office, telephone
8 companies, and cab dispatchers generally would not hire Mexicans at all. [Rosales
9 Report 30].

10 **1645.** Dr. Rosales contends that employment discrimination has continued
11 to affect Arizona Mexican Americans in recent years. [Rosales Report 31].

12 **1646.** For example, in 1997, a former Scottsdale police officer successfully
13 sued the city, claiming he was fired for exposing racism in the department. [Rosales
14 Report 31].

15 **1647.** In Tempe, a 35-year Mexica city employee joined a dozen current
16 and former city employees in filing a successful federal lawsuit in which they alleged
17 systematic racial discrimination in Tempe's Public Works Department. [Rosales Report
18 31].

19 **1648.** Dr. Rosales concluded that that Mexican Americans in Arizona have
20 experienced a history of discrimination in voting and registration, in addition to other
21 areas such as property rights, employment and education. [Rosales Report 32].

22 **1649.** Dr. Rosales concluded that the discrimination of Mexican Americans
23 in Arizona has hindered and continues to hinder the ability of Mexican Americans to
24 fully participate in the political process in the state. [Rosales Report 32].
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