

1 **JAMES P. WALSH**
2 **PINAL COUNTY ATTORNEY**
3 Chris Roll (007317)
4 Nicole Weber (019361)
5 Chief Civil Deputy County Attorney
6 P. O. Box 887
7 Florence, AZ 85232
8 Telephone: (520) 866-6271

9 Attorneys for Laura Dean-Lytle, Gilberto Hoyos
10 and Dolores J. Doolittle

11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**

13 MARIA M. GONZALEZ, et al.)	Case No. CV 06-1268-PHX-ROS (Lead)
)	No. CV 06-1362-PHX-ROS
14 Plaintiffs,)	No. CV 06-1575-PHX-ROS
)	
15 v.)	OBJECTION OF PINAL COUNTY
)	TREASURER TO SUBPOENA
16 STATE OF ARIZONA, JAN BREWER, in)	REQUIRING PRODUCTION OF
17 her office capacity as the Secretary of State)	MATERIALS
18 of the State of Arizona, et al.,)	Assigned to the Honorable Roslyn O.
)	Silver
19 Defendants.)	

20 The Pinal County Treasurer, Dolores J. Doolittle, by and through undersigned
21 counsel, hereby objects to the requirement to produce “all uncounted provisional and
22 conditional provisional ballot envelopes from each election held in the county since
23 January 2005.” This requirement to produce is contained in a subpoena served on the
24 Treasurer on January 28, 2008. The documents were required to be produced on
25 February 13, 2008. Plaintiffs have since indicated that the subpoena will be re-served on
26 the Pinal County Treasurer and that the original February 13, 2008 response date will be
27 extended as a result.

28 Two elections, excluding the presidential primary held on February 5, 2008, were
held in Pinal County during the time period covered by the subpoena. These were the
primary election of 2006 and the general election of 2006. Based upon the official

1 canvass of those elections, it appears that there were 1,169 provisional ballots that were
2 not counted and 40 conditional provisional ballots that were not counted. Production of
3 the documents that would be responsive to this subpoena would require the retrieval and
4 copying of a total of 1,209 ballot containing envelopes.

5 Contemporaneously with service of the above subpoena on the Pinal County
6 Treasurer, similar subpoenas were served upon the other County Treasurers throughout
7 the state. As a result, objections to the subpoenas have been filed by the state defendants
8 and the thirteen (13) county defendants being represented by the Maricopa County
9 Attorney's Office, both alleging timeliness and other issues. The Pima County Treasurer
10 has also filed a motion to quash the subpoena alleging that the Treasurer has no legal
11 authority to comply with the subpoena and that to do so could subject her to criminal or
12 civil penalty.

13 The documents sought, the envelopes containing uncounted provisional or
14 conditional provisional ballots, would contain confidential information. The outside of
15 the envelopes would contain the voter's name, the voter's signature, the voter's address
16 and the voter's telephone number or telephone number where the voter could be
17 contacted. The envelope would also identify the precinct and contain the poll worker's
18 name and signature.

19 Because this information is confidential, and because legal challenges have been
20 made to the authority of a County Treasurer to comply with the subpoena, it would be
21 imprudent for the Pinal County Treasurer to comply with the subpoena prior to this
22 Court's ruling on the pending challenges to the subpoena. Therefore, the Pinal County
23 Treasurer hereby objects to the subpoena pursuant to Rule 45(c)(2)(B) of the Federal
24 Rules of Civil Procedure, and requests this Court to rule on all pending objections and
25 challenges to these subpoenas, and either quash the subpoenas for all affected County
26 Treasurers or issue an order to compel those County Treasurers to comply with the
27 subpoena.

28 ///

1 RESPECTFULLY SUBMITTED this 8th day of February, 2008.

2 JAMES P. WALSH
3 PINAL COUNTY ATTORNEY

4
5 By: /s/ Chris M. Roll
6 Chris M. Roll
7 Deputy County Attorney

8 CERTIFICATE OF SERVICE

9 I hereby certify that on the 8th day of February, 2008, I caused the foregoing
10 document to be electronically transmitted to the Clerk's Office using the CM/ECF
11 System for filing and transmittal of a Notice of Electronic Filing to the following
12 CM/ECF Registrants:

12 Daniel R. Ortega, Jr.
13 Roush McCracken Guerreo
14 Miller & Ortega
15 650 North 3rd Avenue
16 Phoenix, AZ 85003
17 Danny@rmgmoinjurylaw.com

18 Nina Perales
19 Mexican American Legal Defense
20 and Education Fund
21 110 Broadway, Suite 300
22 San Antonio, TX 78205
23 nperales@maldef.org

24 M. Colleen Conner
25 Maricopa County Attorney's Office
26 Division of County Counsel
27 222 North Central Avenue, Suite 1100
28 Phoenix, AZ 85003
connorc@mcao.maricopa.gov

Daniel Jurkowitz
Pima County Attorney's Office
32 North Stone Avenue, Suite 2100
Tucson, AZ 85701
Daniel.Jurkowitz@pcao.pima.gov

David B. Rosenbaum
Thomas L. Hudson
Sara S. Greene
Osborn Maledon, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, AZ 85012
drosenbaum@omlaw.com
thudson@omlaw.com
sgreene@omlaw.com

Jean E. Wilcox
Coconino County Attorney's Office
110 East Cherry Avenue
Flagstaff, AZ 86001
jwilcox@coconino.az.gov

David J. Bodney
Karen J. Hartman-Tellez
Steptoe & Johnson LLP
Collier Center
201 East Washington Street, Suite 1600
Phoenix, AZ 85004
dbodney@steptoe.com
khartman@steptoe.com

1 Dennis I. Wilenchik
2 Kathleen Rapp
3 Wilenchik and Bartness, P.C.
4 The Wilenchik & Bartness Building
5 2810 North Third Street
6 Phoenix, AZ 85004
7 diw@wb-law.com
8 kathleenr@wb-law.com

9 John Greenbaum
10 Benjamin Blustein
11 Lawyers' Committee for Civil
12 Rights Under Law
13 1401 New York Avenue, Suite 400
14 Washington, DC 20005
15 jgreenbaum@lawyerscommittee.org

16 Elliot M. Mineberg
17 David J. Becker
18 People for the American Way Foundation
19 2600 M Street NW, Suite 400
20 Washington, DC 20036
21 emineberg@pfaw.org
22 dbecker@pfaw.org

23 Judith M. Dworkin
24 Marvin S. Cohen
25 Patricia Ferguson-Bohnee
26 SACKS TIERNEY P.A.
27 4250 North Drinkwater Blvd. 4th
28 Scottsdale, AZ 85251
Judith.Dworkin@sackstierney.com

Melvin R. Bowers, Jr.
Lance B. Payette
Navajo County Attorney's Office
P.O. Box 668
Holbrook, AZ 86025
lance.payette@co.navajo.az.us

Daniel B. Kohrman
AARP Foundation Litigation
601 E Street NW, Suite A4-240
Washington, DC 20049
dkohrman@aarp.org

Neil Bradley
ACLU Southern Regional Office
2600 Marquis One Tower
245 Peachtree Center Avenue
Atlanta, GA 30303
nbradley@aclu.org

Luis Roberto Vera, Jr.
League of United Latin American
Citizens
111 Soledad, Suite 1325
San Antonio, TX 78205
Irvlaw@sbcglobal.net

Joe P. Sparks
Susan B. Montgomery
Sparks, Tehan & Ryley PC
The Inter Tribal Council of Arizona, Inc.
7503 First Street
Scottsdale, AZ 85251
joe-sparks@qwest.net

Mary O'Grady
Solicitor General
Carrie J. Brennan
Barbara A. Bailey
Assistant Attorneys General
1275 West Washington Street
Phoenix, AZ 85007
Mary.OGrady@azag.gov

Brenna L. Clani
Navajo County Department of Justice
P.O. Box 2010
Window Rock, AZ 86515
brennalclani@navajo.org

1 Criss E. Candelaria
2 Bradley Carlyon
3 Apache County Attorney's Office
4 P.O. Box 637
5 St. Johns, AZ 86025
6 bcarlyon@apachelaw.com

7 By: /s/ Kris Heard