

1 OSBORN MALEDON, P.A.  
2 2929 North Central Avenue, 21st Floor  
3 Phoenix, Arizona 85012-2793  
4 Telephone: (602) 640-9000

5 David B. Rosenbaum (009819)  
6 drosenbaum@omlaw.com  
7 Thomas L. Hudson (014485)  
8 thudson@omlaw.com  
9 Sara S. Greene (022706)  
10 sgreene@omlaw.com

11 STEPTOE & JOHNSON LLP  
12 Collier Center  
13 201 East Washington Street, Suite 1600  
14 Phoenix, Arizona 85004-2382  
15 Telephone: (602) 257-5200  
16 Facsimile: (602) 257-5299

17 David J. Bodney (006065)  
18 dbodney@steptoe.com  
19 Karen J. Hartman-Tellez (021121)  
20 khartman@steptoe.com

21 Attorneys for The Inter Tribal Council  
22 of Arizona, Inc., et al.

23 UNITED STATES DISTRICT COURT  
24 DISTRICT OF ARIZONA

25 Maria M. Gonzalez, et al.,  
26 Plaintiffs,

27 vs.

28 State of Arizona, et al.,  
Defendants.

) No. CV06-01268-PHX-ROS (Lead)  
) CV06-01362-PHX-ROS (Cons)  
) CV06-01575-PHX-ROS (Cons)

) **RESPONSE IN OPPOSITION TO**  
) **MOTION IN LIMINE RE**  
) **TESTIMONY OF ARTURO**  
) **ROSALES AND AGNES**  
) **LAUGHTER**

29 The Inter Tribal Council of Arizona, Inc., the Hopi Tribe, the Arizona  
30 Advocacy Network, the League of Women Voters of Arizona, the League of United  
31 Latin American Citizens, and Rep. Steve Gallardo (collectively, the "ITCA Plaintiffs")  
32 hereby oppose the Motion in Limine re Testimony of Arturo Rosales and Agnes  
33 Laughter filed by the State of Arizona, the Arizona Secretary of State and the County

1 Recorders and Elections Directors of Apache, Cochise, Gila, Graham, Greenlee, La Paz,  
2 Maricopa, Mohave, Pima, Santa Cruz, Yavapai and Yuma Counties (collectively,  
3 “Defendants”). Portions of the deposition testimony of Agnes Laughter are both  
4 relevant and admissible at trial. Indeed, the Court has already admitted the entire video-  
5 taped deposition into evidence. As explained more fully below, to the extent it seeks to  
6 exclude relevant portions of the Laughter Deposition, the Defendants’ Motion in Limine  
7 should be denied.

8 At the February 8, 2007 Preliminary Injunction Hearing in this  
9 consolidated case, the Navajo Nation plaintiffs offered into evidence the testimony of  
10 Agnes Laughter by video deposition. Though technical problems made it impossible for  
11 the deposition to be played during the hearing, the Court admitted the video and  
12 informed the parties that it would be viewed. “[E]vidence that is received on [a] motion  
13 [for preliminary injunction] and that would be admissible at trial becomes part of the  
14 trial record and need not be repeated at trial.” Fed. R. Civ. P. 65(a)(2).

15 Portions of Ms. Laughter’s deposition testimony are relevant and  
16 admissible at trial under Fed. R. Evid. 402. Ms. Laughter testified at her deposition that  
17 she does not possess a birth certificate, and that without a birth certificate she was  
18 unable to obtain other forms of identification. [See Laughter Dep. at 13:22-14:14]  
19 Indeed, such testimony illustrates that without one form of identification that constitutes  
20 “satisfactory evidence of citizenship” (here, a birth certificate) it is difficult or  
21 impossible to obtain another form of identification (a nonoperator’s identification  
22 license) that could be used for the same purpose. As such, Ms. Laughter’s deposition  
23 testimony is relevant to establish the ITCA Plaintiffs’ claim that Proposition 200 unduly  
24 burdens the fundamental right to vote. [See Ex. A, ITCA Plaintiffs’ deposition  
25 designations re Agnes Laughter]

26 Moreover, Ms. Laughter’s deposition testimony may be used at trial under  
27 Fed. R. Civ. P. 32(a). The deposition was properly noticed and Defendants were  
28 represented by counsel at the deposition. [See Doc. 222; Laughter Dep. at 3] Ms.

1 Laughter lives near Chilchinbeto, outside Kayenta, Arizona on the Navajo Reservation –  
2 nearly 300 miles from the courthouse in Phoenix. [Laughter Dep. at 9:24-10:2] She is  
3 therefore “unavailable” for trial. Fed. R. Civ. P. 32(a)(4)(B). Accordingly, “all or part  
4 of the deposition may be used against” Defendants. Fed. R. Civ. P. 32(a)(1)(A).

5 Conclusion

6 For the foregoing reasons, Defendants’ Motion in Limine re Testimony of  
7 Arturo Rosales and Agnes Laughter should be denied with respect to the portions of the  
8 Laughter Deposition that the ITCA Plaintiffs have designated for submission at trial.

9 RESPECTFULLY SUBMITTED this 23rd day of June, 2008.

10 STEPTOE & JOHNSON LLP

11 By Karen J. Hartman-Tellez  
12 David J. Bodney  
13 Karen J. Hartman-Tellez  
14 Collier Center  
201 East Washington St., Ste. 1600  
Phoenix, Arizona 85004-2382

15 OSBORN MALEDON, P.A.  
16 David B. Rosenbaum  
17 Thomas L. Hudson  
18 Sara S. Greene  
2929 North Central Ave., 21st Floor  
Phoenix, Arizona 85012-2793

19 Attorneys for The Inter Tribal Council  
20 of Arizona, Inc., et al.

1 LAWYERS' COMMITTEE FOR CIVIL  
RIGHTS UNDER LAW

2 Jon M. Greenbaum  
3 Robert A. Kengle  
4 1401 New York Avenue, Suite 400  
5 Washington, D.C. 20005  
6 Telephone: 202-662-8315  
7 Fax: (202) 628-2858  
8 E-mail:  
9 jgreenbaum@lawyerscommittee.org  
10 bkengle@lawyerscommittee.org  
11 *Admitted Pro Hac Vice*

12 ACLU Southern Regional Office  
13 Neil Bradley  
14 2600 Marquis One Tower  
15 245 Peachtree Center Avenue  
16 Atlanta, Georgia 30303  
17 Telephone: 404-523-2721  
18 Fax: 404-653-0331  
19 E-mail: nbradley@aclu.org  
20 *Admitted Pro Hac Vice*

21 THE LEAGUE OF UNITED LATIN  
22 AMERICAN CITIZENS

23 Luis Roberto Vera, Jr.  
24 (TX SBN 20546740)  
25 111 Soledad, Suite 1325  
26 San Antonio, Texas 78205-2260  
27 Telephone: 210-225-3300  
28 Fax: 210-225-2060  
E-mail: lrvlaw@sbcglobal.net  
*Pro Hac Vice Application to be filed*

AARP FOUNDATION LITIGATION

Daniel B. Kohrman (DC BN 394064)  
601 E Street, N.W., Suite A4-240  
Washington, DC 20049  
Telephone: 202-434-2064  
Fax: 202-434-6424  
E-mail: dkohrman@aarp.org  
*Admitted Pro Hac Vice*

THE INTER TRIBAL COUNCIL OF  
ARIZONA, INC.

Joe P. Sparks (002383)  
The Sparks Law Firm PC  
7503 First Street  
Scottsdale Arizona 85251  
Telephone: 480-949-1339  
Fax: 480-949-7587  
E-mail: joesparks@sparkslawaz.com

Attorneys for the Inter Tribal Council of  
Arizona, Inc., et al.

1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 23rd day of June, 2008, I caused the attached  
3 document to be electronically transmitted to the Clerk's Office using the CM/ECF  
4 System for filing and transmittal of a Notice of Electronic Filing to the following  
5 CM/ECF Registrants:

6 Kenneth Andrew Angle  
kangle@graham.az.gov

7  
8 Barbara Anne Bailey  
barbara.bailey@azag.gov

9  
10 Diego M. Bernal  
dbernal@maldef.org

11  
12 Dana Lee Bobroff  
dbobroff@yahoo.com

13  
14 Carrie Jane Brennan  
carrie.brennan@azag.gov

15  
16 Brenna L. Clani  
brennalclani@navajo.org

17  
18 Marvin S. Cohen  
marvin.cohen@sackstierney.com

19  
20 M. Colleen Connor  
connorc@mcao.maricopa.gov

21  
22 Judith M. Dworkin  
judith.dworkin@sackstierney.com

23  
24 Patricia Ferguson  
patty.ferguson@sackstierney.com

25  
26 Daniel S. Jurkowitz  
Daniel.Jurkowitz@pcao.pima.gov

27  
28 Michael William McCarthy  
mmccarthy@co.greenlee.az.us

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Mary Ruth O’Grady  
mary.ogrady@azag.gov

Daniel R. Ortega, Jr.  
danny@rmgmo.com

Luis Fernando Parra  
lparra@co.santa-cruz.az.us

Lance B. Payette  
lance.payette@co.navajo.az.us

Nina Perales  
nperales@maldef.org

Javier Garcia Ramos  
javier.ramos@sackstierney.com

Chris Myrl Roll  
Chris.Roll@co.pinal.az.us

Karl J. Sandstrom  
ksandstrom@perkinscoie.com

Joe P. Sparks  
joesparks@sparkslawaz.com

Thomas M. Stoxen  
thomas.stoxen@co.yavapai.az.us

David Urias  
durias@maldef.org, mmartinez@maldef.org

Nicole Weber  
Nicole.Weber@co.pinal.az.us

Jean E. Wilcox  
jwilcox@coconino.az.gov

Dennis Ira Wilenchik  
diw@wb-law.com

s/ Karen J. Hartman-Tellez