

TAB 1

Exhibit	Description	ITCA Motion to Admit Trial Exhibit	Defendant's Objection
1122	8/23/06 Declaration of Patty Hansen	<p>Ms. Hansen is the Coconino County Elections Director, a defendant in this consolidated action. As such the document is an admission of a party opponent and does not contain hearsay pursuant to Fed. R. Evid. 801(d)(2).</p> <p>The Coconino County Defendants have stipulated to the authenticity and admissibility of this exhibit. [Doc. 912]</p>	<p>Ms. Hansen is not a defendant in this case. Moreover, to the extent she is a defendant in the consolidated case, she has made clear her alignment with plaintiffs. To the extent her "admission" is admissible, it is only admissible against <u>her</u> as a defendant in the companion case, and not against the Secretary of State in this case.</p>
1126	<p>Printouts from websites for Arizona 2-1-1, APS, Southwest Gas, and SRP describing low-income assistance programs</p>	<p>Exhibit 1126 is made up of website printouts from Arizona 2-1-1, APS, Southwest Gas and SRP describing low income assistance programs.</p> <p>Arizona 2-1-1 is a state agency website and SRP is made up of a private corporation and the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona. As such, the documents from Arizona 2-1-1 and SRP websites are public records admissible under Fed. R. Evid. 803(8).</p> <p>In the unique circumstances of this case, SRP, APS and Southwest Gas serve a public purpose in terms of providing identification pursuant to Proposition 200. <i>See Smith v. Allwright</i>, 321 U.S. 649 (1944). The state function of issuing identification for voting has been</p>	<p>Defendant does not object to the information regarding Arizona 2-1-1 and SRP.</p> <p>Defendant objects to printouts pertaining to APS and Southwest Gas because they are hearsay. The fact that those companies provide services to the public does not make them public agencies or offices.</p> <p>Moreover, no foundation was laid to show how the document is relevant to any issue or fact of consequence at trial.</p>

		<p>delegated to these companies. Accordingly the documents printed from their websites are constructive public records admissible under Fed. R. Evid. 803(8).</p> <p>The Court may also take judicial notice of the facts contained in Exhibit 1126. Fed. R. Evid. 201.</p>	
1143	<p>Website printout(s): http://www.vitalchek.com/provider_overview.asp?provider_id=10154&Georgia_Birth_Certificate</p>	<p>On its face, the document provides sufficient evidence to support a finding that it was printed from the Vital Check website. Fed. R. Evid. 901(a).</p> <p>Due to market realities, which require that Vital Check provide accurate information to maintain its business, Exhibit 1143 has guarantees of trustworthiness equivalent to those found in Fed. R. Evid. 803 and 804, and it is more probative to show the information that is available to those members of the public with internet access concerning obtaining a birth certificate and the cost thereof than any other evidence the ITCA Plaintiffs could procure through reasonable efforts. See Fed. R. Evid. 807.</p> <p>In addition, the Court may also take judicial notice of the information in Exhibit 1143. See Fed R. Evid. 201.</p>	<p>No foundation was laid to show how the document is relevant to any issue or fact of consequence at trial. The documents on their face pertain to information about various documents in states other than Arizona. They have no relevance whatever to any issue in this case. Moreover, the documents are hearsay and no exception applies. In addition, it is unclear what information plaintiffs are requesting the Court to take judicial notice of.</p>

1146	<p>Website printout(s):</p> <p>http://www.uscis.gov/graphics/formsfee/forms/index.htm</p> <p>https://www.swgas.com/ServiceRequests/index.jsp</p> <p>https://www.aps.com/aps_services/residential/turnon/default.html</p> <p>http://www.srpnet.com/service/home/deposits.aspx;</p> <p>http://www.aps.com/aps_services/residential/credipolicy/ResCreditPolicy_1.html</p>	<p>The State Defendants have interposed no objection to the document included in Exhibit 1146 printed from the website of United States Citizenship and Immigration Services.</p> <p>The documents printed from the website of SRP are public records admissible under Fed. R. Evid. 803(8). In the unique circumstances of this case, SRP, APS and Southwest Gas serve a public purpose in terms of providing identification pursuant to Proposition 200. <i>See Smith v. Allwright</i>, 321 U.S. 649 (1944). The state function of issuing identification for voting has been delegated to these companies. Accordingly the documents printed from their websites are constructive public records admissible under Fed. R. Evid. 803(8).</p> <p>The Court may also take judicial notice of the facts contained in Exhibit 1146. Fed. R. Evid. 201.</p>	<p>Defendant does not object to the information regarding USCIS. Defendant objects to printouts pertaining to APS and Southwest Gas because they are hearsay. The fact that those companies provide services to the public does not make them public agencies or offices.</p> <p>Moreover, no foundation was laid to show how the documents pertaining to APS, SRP and Southwest Gas are relevant to any issue or fact of consequence at trial.</p>
1147	<p>Website printout(s):</p> <p>http://www.chase.com/ccp/index.jsp?pg_name=ccpmapp/individuals/checking/page/chase_free_checking;</p> <p>http://www.bankofamerica.com/deposits/checksave/index.cfm?</p>	<p>In the unique circumstances of this case, banks that provide bank statements to their customers serve a public purpose in terms of providing identification pursuant to Proposition 200. <i>See Smith v. Allwright</i>, 321 U.S. 649 (1944). The state function of issuing identification for</p>	<p>The documents are plainly hearsay and no exception applies. The fact that banks provide services to the public does not make them public agencies or offices.</p> <p>Moreover, no foundation was laid to show how the documents are</p>

<p>template=check_myaccess https://www.wellsfargo.com/wf/checking/free http://www.azfcu.org/cksav/ck_superior.html</p>	<p>voting has been delegated to these banks. Accordingly the documents printed from their websites are constructive public records admissible under Fed. R. Evid. 803(8). The Court may also take judicial notice of the facts contained in Exhibit 1147. Fed. R. Evid. 201.</p>	<p>relevant to any issue or fact of consequence at trial.</p>
<p>1172 Report of the number of voters who left Coconino County polling places without casting any ballot in the November 2006 General Election</p>	<p>Exhibit 1172 is a document compiled by the Coconino County Defendants, which reflects the number of prospective voters in the 2006 general election who did not have appropriate identification and chose to leave the polling location rather than cast a conditional provisional ballot. Pursuant to the Court's November 1, 2006 Order, the Defendants were ordered to track and turn this information over to the ITCA Plaintiffs. [See Doc. 241] Consequently, the document is an admission by a party opponent and does not contain hearsay pursuant to Fed R. Evid. 801(d)(2). Even if the document did contain hearsay statements, it is a data compilation of public officers setting forth matters observed pursuant to duty imposed by law as to which there was a duty to report, and is admissible under the Public Records and Reports hearsay exception. Fed. R. Evid. 803(8). The Coconino County Defendants have</p>	<p>The document admittedly was prepared for purposes of litigation, and was done so by a party expressly aligned with plaintiffs in the consolidated case. Coconino County Recorder and Election Director are not parties in this case. Moreover, to the extent they are parties in the consolidated case, their statements are not admissible against the Secretary of State. Finally, the Court's 2006 order did not instruct officials to record the statements made by individuals at the polling place. The exhibit contains hearsay within hearsay. To the extent the document as a whole is admissible, the statements of voters or based on voters' statements should be redacted.</p>

		stipulated to the authenticity and admissibility of this exhibit. [Doc. 912]	
1173	Report of the number of voters who left Apache, Cochise, Gila, Graham, Greenlee, La Paz, Maricopa, Mohave, Pima, Pinal, Santa Cruz, Yavapai and Yuma County polling places without casting any ballot in the November 2006 General Election	Exhibit 1173 is a document compiled by counsel for the County Defendants, which reflects the number of prospective voters in the 2006 general election who did not have appropriate identification and chose to leave the polling location rather than cast a conditional provisional ballot. Pursuant to the Court's November 1, 2006 Order, the Defendants were ordered to track and turn this information over to the ITCA Plaintiffs. [See Doc. 241] Attached as Exhibit B is a copy of the email with which the County Defendants' counsel transmitted Exhibit 1173 to counsel for the ITCA Plaintiffs.	The Court's 2006 order did not instruct officials to record the statements made by individuals at the polling place. The exhibit contains hearsay within hearsay. To the extent the document as a whole is admissible, the statements of voters or based on voters' statements should be redacted.
1195	James Thomas Tucker and Rodolfo Espino, Voting Rights in Arizona 1982-2006 (March 2006)	The Tucker/Espino Report was cited in and an attachment to (Ex. 4) the Responses of the Inter Tribal Council of Arizona, Inc. to Second Set of Interrogatories by the Arizona Secretary of State (Trial Ex. 1325), which the Court admitted during trial on July 15, 2008, on motion of the State Defendants.	The admission of interrogatory responses as party admissions does not render documents referenced therein as admissible evidence. Defendants moved for admission of the interrogatory responses, not a hearsay article by non-parties to the litigation. The article is hearsay and no exception applies.
1200	List of Native American elected officials printed from the following website:	Exhibit 1200 was cited in and an attachment to (Ex. 8) the Responses of the Inter Tribal Council of Arizona, Inc.	The admission of interrogatory responses as party admissions does not render documents referenced

	<p>http://indnslist.org/elected_officials</p>	<p>to Second Set of Interrogatories by the Arizona Secretary of State (Trial Ex. 1325), which the Court admitted during trial on July 15, 2008, on motion of the State Defendants.</p>	<p>therein as admissible evidence. Defendants moved for admission of the interrogatory responses, not a hearsay article by non-parties to the litigation. The article is hearsay and no exception applies. Moreover, no foundation was laid to show how the document is relevant to any issue or fact of consequence at trial.</p>
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