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11 UNITED STATES DISTRICT COURT
12 DISTRICT OF ARIZONA

13 Maria M. Gonzalez, et al.,
14
15 Plaintiffs,

16 v.

17 State of Arizona, et al.,
18
19 Defendants.

No. CV-06-1268-PHX-ROS(Lead)
No. CV-06-1362-PCT-JAT(Cons.)
No. CV-06-1575-PHX-EHC(Cons.)

**GONZALEZ PLAINTIFFS’
UNOPPOSED MOTION FOR
BRIEFING SCHEDULE FOR
ATTORNEYS FEES AND COSTS**

(ASSIGNED TO THE HON. ROSLYN O.
SILVER)

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22 Come now, Plaintiffs *Maria M. Gonzalez, et al.* (the “Gonzalez Plaintiffs”) and
23 file this Unopposed Motion for Briefing Schedule for Attorneys Fees and Costs.

24 **INTRODUCTION**

25 On May 9, 2006 Gonzalez Plaintiffs filed suit against Defendants State of Arizona,
26 et al. in this matter to enjoin various provisions of the Arizona Citizens and Taxpayer
27 Protection Act (“Proposition 200”). Among several claims, Gonzalez Plaintiffs
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1 challenged Proposition 200 as superseded by the National Voter Registration Act
2 (NVRA).

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4 The procedural history of the case is complex and described in further detail
5 below. In sum, the district court and an early panel of the Ninth Circuit ruled that
6 Proposition 200 was not preempted by the NVRA. In a later appeal following trial, a
7 second panel of the Ninth Circuit concluded that Proposition 200 was preempted by the
8 NVRA. The Ninth Circuit en banc reached a similar conclusion and this ruling was
9 affirmed by the U.S. Supreme Court in June, 2013.
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11 Gonzalez Plaintiffs seek an order establishing a timeline for the submission of
12 their motion for attorneys fees and costs that provides the parties adequate time to prepare
13 the motion and to negotiate among themselves, as required by the local rules, in order to
14 attempt to resolve the issue without further court involvement. Because the history of the
15 case is lengthy and complex, and because the fees motion will include work performed in
16 the U.S. Supreme Court, Gonzalez Plaintiffs seek an extension of the deadlines set out in
17 the local rules.
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20 For the reasons set forth below, Gonzalez Plaintiffs respectfully request the Court
21 to set a briefing schedule wherein Gonzalez Plaintiffs have thirty (30) days after this
22 Court's entry of final judgment to file an initial motion for award of attorneys fees and
23 costs and sixty (60) days from the entry of final judgment to file a memorandum of points
24 and authorities in support of the motion and all supporting documentation. Opposing
25 counsel would then have fifteen (15) days after service of the memorandum of points and
26 authorities in support of the motion for award of attorneys fees and costs in which to file
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1 a responsive memorandum and Gonzalez Plaintiffs would have fourteen (14) days after
2 service of the responsive memorandum to file a reply.

3 PROCEDURAL BACKGROUND

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5 After Gonzalez Plaintiffs filed suit in May 2006, this Court denied Gonzalez
6 Plaintiffs' motion for a temporary restraining order in June 2006, *see* Dkt. 68 at 14, and
7 then denied Gonzalez Plaintiffs' motion for preliminary injunction on September 11,
8 2006, *see* Dkt. 183 at 1-2. On appeal, the Ninth Circuit granted the motion for a
9 temporary restraining order, *see Gonzalez v. Arizona*, 485 F.3d 1041, 1046 (9th Cir.
10 2007) (*Gonzalez I*); the U.S. Supreme Court then reversed and remanded the case to the
11 Ninth Circuit for further consideration, *see Purcell v. Gonzalez*, 549 U.S. 1, 5-6 (2006)
12 (per curiam). On remand, the Ninth Circuit denied Gonzalez Plaintiffs' motion for a
13 preliminary injunction. *See Gonzalez I*, 485 F.3d at 1052.

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16 Gonzalez Plaintiffs pursued their claim for preliminary injunctive relief only with
17 respect to Proposition 200's registration requirement. *See id.* at 1048. The panel in
18 *Gonzalez I* affirmed this Court's denial of the preliminary injunction, holding that
19 Proposition 200's registration provision was not an unconstitutional poll tax and was not
20 superseded by the NVRA. *See id.* at 1049, 1050-51. On August 28, 2007, this Court, on
21 remand, entered summary judgment for Arizona on Gonzalez Plaintiffs' NVRA,
22 Supremacy Clause, and 24th Amendment claims. *See* Dkt. 330 at 7. On August 20, 2008,
23 following a trial, the Court entered final judgment against Gonzalez Plaintiffs, holding
24 that Proposition 200 did not violate § 2 of the Voting Rights Act ("VRA") or the Equal
25 Protection Clause of the Fourteenth Amendment, and that it did not constitute a poll tax
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1 Jesus Gonzalez, et al v. State of Arizona, et al ‘Supreme Court Opinion Received’” (9th
2 Cir. June 25, 2013) (“The judgment or mandate of this Court will not issue for at least
3 twenty-five days pursuant to Rule 45. Should a petition for rehearing be filed timely, the
4 judgment or mandate will be further stayed pending this Cour[t]’s action on the petition
5 for rehearing.”).

7 The Ninth Circuit previously filed its mandate resolving the Gonzalez Plaintiffs’
8 appeal of the district court’s rulings on the NVRA, Twenty-fourth Amendment, VRA,
9 and Equal Protection Clause claims on June 29, 2012. Subsequently, on July 9, 2012, the
10 parties to this case filed a Joint Status Report wherein both sides agreed that “any
11 application for attorneys’ fees should be deferred pending the United States Supreme
12 Court’s disposition of Defendants’ *certiorari* petition.” Dkt. 1071. Because the Supreme
13 Court affirmed the Ninth Circuit’s decision, and the Ninth Circuit has issued its mandate
14 based on that decision to this Court, no further mandate need issue from the Ninth Circuit
15 before this Court issues its final judgment. *See Arizona v. ITCA*, No. 12-71, slip op at 18
16 (U.S. June 17, 2013).

19 According to Fed. R. Civ. P. 54(d)(2), a motion for attorneys fees and costs in the
20 district court “must . . . be filed no later than 14 days after the entry of judgment.” FED.
21 R. CIV. P 54(d)(2)(B)(i) (attorney’s fees); *see* FED. R. CIV. P 54(d)(1) (“Unless a federal
22 statute, these rules, or a court order provides otherwise, costs—other than attorney’s
23 fees—should be allowed to the prevailing party.”). Gonzalez Plaintiffs request a briefing
24 schedule that would allow for the filing of the initial motion for award of attorneys fees
25 and costs thirty (30) days after this Court enters final judgment. More than seven years
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1 have passed since the Gonzalez Plaintiffs initially filed suit against the State of Arizona
2 and county defendants. Due to the complexity and abundance of issues raised and
3 litigated in this case, as well as the amount of time spent in litigation, Gonzalez Plaintiffs
4 require more than the statutory fourteen days in order to properly review time records,
5 exercise billing judgment and file with the Court their initial motion. LRCiv
6 54.2(b)(1)(B). Otherwise, Gonzalez Plaintiffs intend to adhere to the schedule provided
7 for in the Court's local rules. LRCiv 54.2(b)(2) (providing that the memorandum of
8 points and authorities in support of a motion for award of attorneys fees and all
9 supporting documentation shall be filed within sixty (60) days of the entry of final
10 judgment); LRCiv 54.2(b)(3) (providing that opposing counsel may file a responsive
11 memorandum within fifteen (15) days after service of the memorandum in support of the
12 motion for award of attorneys fees and that the moving party shall have fourteen (14)
13 days after service of the responsive memorandum to reply). At this point, Gonzalez
14 Plaintiffs believe that sixty days is an adequate period in which to negotiate attorneys fees
15 and costs with Defendants, and Gonzalez Plaintiffs request that the Court preserve the
16 sixty (60) day deadline for moving counsel's memorandum of points and authorities in
17 support of a motion for award of attorneys fees and all supporting documentation, which
18 would include the required "Statement of Consultation" with opposing counsel. LRCiv
19 54.2(d)(1).

20 CONCLUSION

21 For the reasons set forth above, Gonzalez Plaintiffs respectfully request the Court
22 to set a briefing schedule wherein Gonzalez Plaintiffs have thirty (30) days after this
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1 Court's entry of final judgment to file an initial motion for award of attorneys fees and
2 costs and sixty (60) days from the entry of final judgment to file a memorandum of points
3 and authorities in support of the motion and all supporting documentation. Opposing
4 counsel would then have fifteen (15) days after service of the memorandum of points and
5 authorities in support of the motion for award of attorneys fees and costs in which to file
6 a responsive memorandum and Gonzalez Plaintiffs would have fourteen (14) days after
7 service of the responsive memorandum to file a reply.
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10 Dated: July 8, 2013

Respectfully submitted,

11
12 s/ Nina Perales
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