

Nos. 08-17094, 08-17115

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MARIA M. GONZALEZ, et al., )  
 )  
 Plaintiffs-Appellants, )  
 )  
 )  
 )

v. )  
 ) No. CV06-01268-PHX-ROS  
 ) No. CV06-01362-PHX-ROS

STATE OF ARIZONA, et al., )  
 )  
 )  
 Defendants-Appellees. )

THE INTER TRIBAL COUNCIL )  
 OF ARIZONA )  
 )  
 )  
 Plaintiffs-Appellants )  
 )  
 )

**ITCA APPELLANTS’  
APPLICATION FOR  
ATTORNEYS’ FEES  
AND EXPENSES**

KEN BENNETT, in his official )  
 capacity as SECRETARY OF )  
 STATE OF ARIZONA, )  
 )  
 )  
 Defendants-Appellees. )

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## I. INTRODUCTION

On April 17, 2012, this Court, sitting en banc, held that Arizona's requirement that prospective voters provide proof of U.S. citizenship in order to register to vote is superseded by the National Voter Registration Act of 1993 ("NVRA"), 42 U.S.C. § 1973gg *et seq.*, insofar as that requirement "is applied to applicants using the National Mail Voter Registration Form ('Federal Form') to register to vote in federal elections." Slip op. at 4121. Appellants The Inter-Tribal Council of Arizona, Arizona Advocacy Network, State Representative Steve Gallardo, League of United Latin American Citizens Arizona, League of Women Voters of Arizona, and Hopi Tribe ("ITCA Appellants" or "ITCA Plaintiffs") now move for an award of attorneys' fees and expenses for work undertaken on appeal in successfully challenging the legality of the proof-of-citizenship requirement.

ITCA Appellants challenged Arizona's registration requirement on two grounds: (1) that it violates the NVRA with regard to persons seeking to register to vote using the Federal Form; and (2) that it is an unconstitutional poll tax under the Fourteenth and Twenty-Fourth Amendments, enforced through 42 U.S.C. § 1983. The en banc Court, as indicated, ruled in the ITCA Appellants' favor as to the NVRA claim, and concluded that it did not need to address the poll tax claim in light of the NVRA holding. Slip op. at 4149.

The NVRA authorizes awards of attorneys' fees and expenses to litigants who successfully challenge violations of that statute, 42 U.S.C. § 1973gg-9(c), and federal law likewise authorizes awards for fees and expenses regarding constitutional challenges to state enactments. 42 U.S.C. § 1988. ITCA Appellants move for attorneys' fees and expenses with regard to the work undertaken on both its NVRA and poll tax claims since the two legal theories addressed a common core of facts, and thus are inter-related for purposes of granting the requested award. This motion covers the appellate work undertaken before the Ninth Circuit panel that initially heard the instant appeal (*i.e.*, the panel whose decision was reported at 624 F.3d 1162 (2010)) and the work undertaken in connection with this Court's subsequent en banc review.<sup>1</sup>

## II. BACKGROUND AND PROCEDURAL HISTORY<sup>2</sup>

The ITCA Plaintiffs filed suit in May 2006 to enjoin election-related provisions of Arizona's Proposition 200, adopted by the state's voters on November 2, 2004.<sup>3</sup> Specifically, ITCA Plaintiffs challenged Proposition 200's

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<sup>1</sup> ITCA does not seek an award for work undertaken in connection with an earlier appeal in this case, which resulted in the panel opinion reported at 485 F.3d 1041 (2007).

<sup>2</sup> A more detailed summary of the background and procedural history of this case is set forth in this Court's en banc opinion. Slip op. at 4121-24.

<sup>3</sup> The ITCA plaintiffs included the Inter-Tribal Council of Arizona, Inc., the Arizona Advocacy Network, the Hopi Tribe, the League of Women Voters of Arizona, the League of United Latin American Citizens, and State Representative Steve Gallardo.

proof-of-citizenship requirement for individuals registering to vote in Arizona, and a provision requiring voters to present certain documentary identification in order to cast a ballot at the polls on election day. ITCA Plaintiffs alleged that the proof-of-citizenship requirement is pre-empted by the NVRA and is an unconstitutional poll tax, and also set forth other legal claims against that provision. As to the polling place provision, ITCA Plaintiffs did not allege an NVRA violation, but alleged that the provision also constitutes an unconstitutional poll tax and is unlawful for other reasons. A similar challenge to the election provisions of Proposition 200 was filed by a separate group of plaintiffs (“Gonzalez Appellants” or “Gonzalez Plaintiffs”), and the district court consolidated the two lawsuits.

After trial, the district court ruled against the ITCA and Gonzalez Plaintiffs, and both plaintiff groups appealed. ITCA Appellants limited their appeal to challenging the proof-of-citizenship requirement as violative of the NVRA and the constitutional prohibition against poll taxes, and to challenging the polling place provision as also violative of the poll tax prohibition.

In their opening and reply briefs to the panel, the ITCA Appellants’ legal argument essentially had three parts. *See* Opening Brief of Appellants The Inter Tribal Council of Arizona, et al., Dkt. No. 11, ID No. 6759254, dated Jan. 7, 2009; Reply Brief of Appellants The Inter Tribal Council of Arizona, et al., Dkt. No. 39, ID No. 6815793, dated Feb. 20, 2009. One part dealt with the NVRA, and

explained why that statute prohibits Arizona from applying its proof-of-citizenship requirement to persons registering to vote using the Federal Form prescribed by the United States Election Assistance Commission (“EAC”). A second part addressed the poll tax prohibitions of the Fourteenth and Twenty-Fourth Amendments, enforced through 42 U.S.C. § 1983, and the application of those prohibitions to both the voter registration and polling place provisions. The third part addressed the application of the doctrine of “law of the case” to the portion of the appeal dealing with the voter registration requirement. A Ninth Circuit panel previously had ruled in this case – on an appeal from the district court’s denial of a motion for preliminary injunction – that the proof-of-citizenship requirement was not superseded by the NVRA and was not an unconstitutional poll tax.<sup>4</sup> *Gonzalez v. Arizona*, 485 F.3d 1041 (9<sup>th</sup> Cir. 2007). ITCA’s briefs argued that this prior panel ruling did not preclude the second panel from finding the registration requirement unlawful.

Agreeing with ITCA Appellants, the second Ninth Circuit panel held that the proof-of-citizenship requirement is superseded by the NVRA, and that the “law of the case” did not preclude the panel from reconsidering the application of the NVRA to this provision. *Gonzalez v. Arizona*, 624 F.3d 1162, 1185-91 (9<sup>th</sup> Cir. 2010). The panel majority also addressed the “law of the circuit” and held that this

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<sup>4</sup>The “law of the case” issue did not apply to the polling place provision since it was not at issue in the appeal of the preliminary injunction denial.

doctrine likewise did not preclude the panel from ruling on the application of the NVRA to the registration requirement. *Id.* at 1188-91. The panel majority concluded that, in light of its NVRA ruling, it was unnecessary to address whether the registration requirement also constitutes an unconstitutional poll tax. *Id.* at 1191 n.20. Finally, the panel majority rejected the challenges to the polling place provision. *Id.* at 1191-98. Appellees sought en banc review, and the ITCA Appellants filed a brief in opposition, arguing that the panel had correctly addressed and construed the application of the NVRA to this case. *See* Response of Appellants Inter Tribal Council of Arizona et al to Appellees' Petition for Rehearing En Banc, Dkt. No. 143, ID No. 7630293, dated Jan. 31, 2011.

As indicated, on April 17, 2012, the en banc Court issued its ruling. The en banc Court agreed with the panel that the NVRA supersedes the proof-of-citizenship requirement when persons register to vote by completing the Federal Form, and that, in light of this ruling, it was unnecessary to address the ITCA Appellants' poll tax challenge to the registration requirement. Slip op. at 4124-49. The en banc Court rejected ITCA Appellants' poll tax challenge insofar as it related to Arizona's polling place provision, and rejected the Gonzalez appellants' separate challenge under Section 2 of the Voting Rights Act, 42 U.S.C. § 1973, to the polling place provision. Slip op. at 4149-60.

### III. LEGAL STANDARD

Prevailing plaintiffs in civil rights litigation brought under the National Voter Registration Act (“NVRA”) and 42 U.S.C. § 1983 are entitled to recover reasonable attorneys’ fees and expenses. 42 U.S.C. § 1973gg-9(c) (“In a civil action under this section, the court may allow the prevailing party...reasonable attorney fees, including litigation expenses, and costs.”); 42 U.S.C. § 1988(b) (in actions to enforce the constitution under 42 U.S.C. § 1983, “the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney’s fee....”). Although these fee-shifting provisions are cast in terms of a court’s “discretion,” the Supreme Court has held that “a prevailing plaintiff should ordinarily recover an attorney’s fee unless special circumstances would render such an award unjust.” *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983) (internal quotations omitted); *see also Newman v. Piggie Park Enters., Inc.*, 390 U.S. 400, 401-02 (1968) (noting that, absent “special circumstances,” attorneys’ fees should be awarded in civil rights cases because such cases are “a means of securing broad compliance with the law”); *Nat’l Coalition for Students with Disabilities v. Bush*, 173 F.Supp.2d 1272, 1276 (N.D. Fla. 2001) (applying the same standard to NVRA fee petitions).

Plaintiffs are prevailing parties if they “succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit.”

*Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983) (quotations omitted). Thus, “[t]he touchstone of the prevailing party inquiry must be the material alteration of the legal relationship of the parties in a manner which Congress sought to promote in the fee statute.” *Texas State Teachers Ass’n v. Garland Independent School Dist.*, 489 U.S. 782, 792-93 (1989); *see also* *Buckhannon Board & Care Home, Inc. v. West Virginia Dep’t of Health & Human Resources*, 532 U.S. 598, 604 (2001).

Once a court has determined that a plaintiff is a prevailing party entitled to reasonable attorneys’ fees and expenses, the starting point for calculating a reasonable fee award is the number of hours reasonably expended multiplied by a reasonable hourly rate. *Hensley*, 461 U.S. at 433. This is commonly referred to as the “lodestar,” and there is a “strong presumption” that the lodestar figure represents a reasonable fee. *Pennsylvania v. Del. Valley Citizens’ Council for Clean Air*, 478 U.S. 546, 563-66 (1986); *Cunningham v. Cnty. of Los Angeles*, 879 F.2d 481, 488 (9<sup>th</sup> Cir. 1988) (lodestar figure is “presumptively reasonable”). Discomfort with the total amount of the lodestar fee is insufficient to reduce the amount of attorneys’ fees awarded. *See City of Burlington v. Dague*, 505 U.S. 557, 562 (1992). Although the Ninth Circuit has recognized bases for departure from the lodestar, *see Kerr v. Screen Extras Guild Inc.*, 526 F.2d 67, 69-70 (9<sup>th</sup> Cir. 1975), such a departure is only warranted in “rare and exceptional cases.” *Fischer*

v. *SJB-P.D., Inc.*, 214 F.3d 1115, 1119 n. 4 (9<sup>th</sup> Cir. 2000) (quoting *Del. Valley Citizens*, 478 U.S. at 565).

To the extent a party is successful as to some claims, but unsuccessful as to others, a court must ask “whether the claims upon which the plaintiff failed to prevail were related to the plaintiff’s successful claims.” *Thorne v. City of El Segundo*, 802 F.2d 1131, 1141 (9<sup>th</sup> Cir. 1986). A claim is related when it involves a “common core of facts” or is based on “related legal theories,” whereas unrelated claims are “distinctly different,” and based on different facts and legal theories.” *Id.* If the claims are related, then the court must evaluate the “significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.” *Id.* (quoting *Hensley*, 461 U.S. at 435). “Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee.” *Hensley*, 461 U.S. at 435. However, “if only ‘partial or limited success’ was obtained, full compensation may be excessive.” *Thorne*, 802 F.2d at 1141.

#### **IV. ARGUMENT**

##### **A. ITCA Appellants are Prevailing Parties**

###### **1. ITCA Appellants Are Entitled to Fees Related to Their NVRA Claim**

It is readily apparent that the ITCA Appellants are prevailing parties under the standards set forth above. In particular, they succeeded on their claim that

Proposition 200's voter registration requirement violates the NVRA and, thus, is invalid as applied to Federal Form voter registrations. As the en banc panel held:

[T]he NVRA and Proposition 200's registration provision, when interpreted naturally, do not operate harmoniously as a single procedural scheme for the registration of voters for federal elections. Therefore, under Congress's expansive Elections Clause power, we must hold that the registration provision, when applied to the Federal Form, is pre-empted by the NVRA.

Slip. Op. at 4148. There is no question but that ITCA Appellants' NVRA claim related to a significant issue in the litigation, whether Arizona citizens may use the Federal Form in registering to vote in accordance with Congress' directives in establishing the Federal Form. Further, the *en banc* panel's decision on the NVRA claim provided ITCA Appellants "the benefit [it] sought in bringing suit," *Hensley*, 461 U.S. at 433, and "alter[ed] the legal relationship of the parties." *Texas State Teachers Ass'n*, 489 U.S. at 792-93. As prevailing parties, the ITCA Appellants are entitled to reasonable attorneys' fees and expenses. 42 U.S.C. § 1973gg-9(c).

## **2. ITCA Appellants are Entitled to Fees Based on their Poll Tax Claim**

The Court should also award attorneys' fees and expenses for time spent on ITCA Appellants' poll tax claim. While ITCA Appellants admittedly did not obtain a ruling in their favor on its § 1983 poll tax claim, success on that claim is not necessary for the ITCA Appellants to obtain fees for work on that claim, for two independently sufficient reasons.

First, the Court should award fees under the NVRA's fee-shifting provision because Counsel's work on both the NVRA and poll tax claims dealt substantially with the same "common core of facts" as the NVRA claim, namely, the state's requirement of citizenship documentation for voter registration. *See Duffy v. City of Desert Hot Springs*, 342 Fed. Appx. 279, 282 (9<sup>th</sup> Cir. 2009) ("Although the...claims advanced different theories, the theories were related and both involved a common core of facts, namely, the circumstances surrounding the City's termination of Duffy."). "Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not a sufficient reason for reducing a fee. The result is what matters." *Hensley*, 461 U.S. at 435; *see also Gates v. Deukmejian*, 987 F.2d 1392, 1404 (9<sup>th</sup> Cir. 1992) ("It is clear that a litigant need not prevail on every claim in order to receive a full fee.").

Second, the Court should also award attorneys' fees and expenses under 42 U.S.C. § 1988. Because of the ruling that the NVRA supersedes Proposition 200's registration provision, the Court did not address ITCA Appellants' argument that the registration provision would constitute a poll tax. *See Slip Op.* at 4149.<sup>5</sup> Even so, the achievement of the result sought via the unaddressed poll tax claim

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<sup>5</sup> That the poll tax claim also involved Proposition 200's polling place provision should not result in a reduction in fees. The bulk of the work on the poll tax claim related to developing the legal theory supporting the claim, which was necessary for the poll tax attack on both the voter registration and polling place provisions.

entitles the ITCA Appellants to § 1988 fees. *See Gerling Global Reinsurance Corp. of America v. Garamendi*, 400 F.3d 803, 808 (9<sup>th</sup> Cir. 2005) (“for the purpose of qualifying a prevailing party, an unaddressed, fee-supporting claim supports an award of fees if it is both substantial and arises from a common nucleus of operative fact with a dispositive, non-fee-supporting claim addressed by the court”).<sup>6</sup>

In short, a plaintiff may recover fees for hours spent on claims that are unsuccessful insofar as that plaintiff is successful as to other claims arising from common facts. Thus, even though the poll tax issue was not decided vis-à-vis the voter registration provision, the ITCA Appellants are entitled to fees for time spent on the poll tax issue under both the NVRA fee-shifting provision and § 1988.

### **3. In Any Event, the ITCA Appellants are Entitled to Fees Related to Time Devoted to the Appeal as a Whole**

In any event, “much of counsel’s time [was] devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis.” *See Hensley*, 461 U.S. at 435. Thus, the Court should “focus on the significance of the overall relief obtained by the plaintiff in relation to the

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<sup>6</sup> *Garamendi* awarded fees in a situation where an unaddressed § 1983 claim was paired with a successful claim for which no attorneys’ fees were available. *Id.* at 808-09. The fact that the NVRA claim is, in fact, a fee-supporting claim only strengthens the ITCA Appellants’ position compared to the plaintiff in *Garamendi*. The key point is that the ITCA Appellants achieved the result the poll tax claim sought with respect to the voter registration provision, so § 1988 fees are appropriate notwithstanding the technical lack of success on the poll tax claim.

hours reasonably expended.” *Id.* In this case, the relief the ITCA Appellants received was significant: Arizonans now have the opportunity to use the Federal Form without the improper restrictions that Arizona sought to impose. Thus, the Court should award fees based on time expended the appeal as a whole.

Moreover, counsel’s work on the law of the case and law of the circuit issues, as well as various other less substantial issues, although it did not directly bear on the merits of the NVRA claim or the poll tax claim, was directed to clearing hurdles standing in the way of the result ultimately obtained through the NVRA claim. These hours would have been necessary regardless of any unsuccessful claims advanced.

### **B. The Fees and Expenses ITCA Appellants Seek are Reasonable**

The ITCA Appellants’ fee request, outlined in greater detail in section V, *infra*, seeks fees and expenses for tasks and expenses incurred as to various issues raised in the appeal, including the merits of the NVRA claim, the merits of the poll tax claim, the law of the case, and the law of the circuit.

#### **1. Counsel Expended a Reasonable Number of Hours**

The attorneys for ITCA Appellants performed services that they reasonably believed advanced the interests of their clients in obtaining the relief sought. The attorneys’ services included participation in appellate briefing on three separate occasions before the Ninth Circuit, as well as several oral arguments. In

conjunction with those events, counsel performed the following services for which fees are sought: legal research, writing and editing briefs, strategy consultations among co-counsel,<sup>7</sup> correspondence among co-counsel, preparation for oral argument, participation in oral argument, and other miscellaneous tasks.

The core team for litigating the appeals included Jon Greenbaum, Robert Kengle, and Mark Posner of the Lawyers' Committee for Civil Rights Under Law; Joe Sparks and Laurel Herrmann from The Sparks Law Firm, P.C.; and David Bodney and Karen Hartman-Tellez from Steptoe & Johnson, LLP. That core team allocated work and responsibilities to more junior attorneys, paralegals and legal interns to maximize efficiency and avoid duplication while providing superior legal service and attaining an outstanding result. These attorneys brought considerable experience in election administration, voting rights, and federal litigation, and also included an appropriate mix of attorney experience levels, as outlined in the attached declarations. Mark Posner, Robert Kengle, and Karen Hartman-Tellez were the primary drafters of the relevant briefs. Jon Greenbaum participated in oral arguments on behalf of ITCA Appellants. All of the members of the core team participated in strategy discussions. Counsel maintained detailed

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<sup>7</sup> In complex and high-visibility appeals such as this one, which often require the coordination of numerous attorneys, it is reasonable for attorneys to spend a fair amount of time on conferences and correspondence among co-counsel. *See Nadarajah v. Holder*, 569 F.3d 906, 925 (9<sup>th</sup> Cir. 2009) (“A fair amount of conferencing among the attorneys was reasonable for an appeal of this complexity, and none of the cited time entries appears unreasonable.”).

time records regarding their work in this litigation. The attached declarations document the hours counsel reasonably expended. Counsel have conservatively calculated the number of hours claimed in this fee application. Counsel have reviewed their time records and exercised billing judgment to eliminate time entries that could arguably be considered duplicative or excessive. To further ensure that counsel are not seeking compensation for arguably duplicative or excessive hours, ITCA Appellants have reduced the hours sought for work performed by Lawyers' Committee Legal Fellows Phillip Dupré and Elizabeth Cochran by one-third, and have reduced the number of hours claimed for Lawyers' Committee staff's travel by 50 percent. Finally, the ITCA Appellants are not seeking fees or expenses related to the prior 9<sup>th</sup> Circuit appeal in this case, or for the Lawyers' Committee's and Steptoe & Johnson's time spent on ITCA Appellants' opposition to Appellees' motion to stay the mandate and on preparing the instant fee application.

Additional factors further demonstrate the reasonableness of the hours sought in the present application. First, this case presented complex issues both constitutional and statutory in nature, as evidenced by this Court's determination that en banc review was appropriate. The NVRA claim on which ITCA Appellants prevailed involved a nuanced interpretation of the NVRA's statutory architecture, how Proposition 200 fit within that architecture, and the impact of Elections Clause

pre-emption on that intersection of federal and state law. This is a case where the ITCA Appellants' counsel "accept[ed] the challenge" of litigating a relatively unique cause of action, which weighs against any suggestion that the hours were excessive or that the lodestar fee be reduced. *Johnson v. Georgia Hwy Express*, 488 F.2d 714, 718 (5<sup>th</sup> Cir. 1974). Second, the context in which a contingent-fee civil rights case is undertaken does not encourage lawyers to inflate their hours. "The payoff is too uncertain, as to both the result and the amount of the fee. It would therefore be the highly atypical civil rights case where plaintiff's lawyer engages in churning. By and large, the court should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case; after all, he won, and might not have, had he been more of a slacker." *Moreno v. City of Sacramento*, 534 F.3d 1106, 1112 (9<sup>th</sup> Cir. 2008); *see also Nadarajah v. Holder*, 569 F.3d 906, 922 (9<sup>th</sup> Cir. 2009) (rejecting contention that case was overstaffed by civil rights attorneys).

As explained above, the ITCA Appellants have obtained an excellent result, in the form of an en banc decision requiring Arizona to permit residents to use the Federal Form to register to vote and invalidating the state law providing otherwise. In circumstances where an excellent result is obtained, such as in this case, the plaintiff's attorney should recover a "fully compensatory fee." *Hensley*, 461 U.S. at 435.

Considering all of the factors, the hours claimed are eminently reasonable.

## 2. The Rates Claimed are Reasonable

Reasonable hourly rates to be used in the lodestar calculation are “calculated according to the prevailing market rates in the relevant community, regardless of whether plaintiff is represented by private or non-profit counsel.” *Blum v. Stenson*, 465 U.S. 886, 895 (1984); *see also id.* at 896 (prevailing parties must justify their rates by demonstrating that they are “in line with those prevailing in the community for similar services by lawyers of reasonably comparable skill, experience, and reputation.”); *Blanchard v. Bergeron*, 489 U.S. 87, 94 (1989) (“And where there are lawyers or organizations that will take a plaintiff’s case without compensation, that fact does not bar the award of a reasonable fee.”).<sup>8</sup> The relevant community in this case is Phoenix, Arizona. *See Christensen v. Stevedoring Servs. of America*, 557 F.3d 1049, 1053 (9<sup>th</sup> Cir. 2009) (“The relevant community is generally defined as the forum in which the district court sits.”) (internal quotations omitted).

The rates requested for Lawyers’ Committee and Sparks are based on current, rather than historical hourly rates. Prevailing parties may obtain current market rates in order to make up the difference caused by losses due to delays in payment. *See Missouri v. Jenkins*, 491 U.S. 274, 283 (1989) (“Clearly,

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<sup>8</sup> All work by all counsel was done on a *pro bono* basis. Clients were not charged for any attorneys’ fees or expenses.

compensation received several years after the services were rendered -- as it frequently is in complex civil rights litigation -- is not equivalent to the same dollar amount received reasonably promptly as the legal services are performed, as would normally be the case with private billings.”); *Christensen*, 557 F.3d at 1055-56 (current rates can be used to “make up the difference” due to delay).

Thus, ITCA Appellants’ counsel seek reimbursement at the following rates, supported by the attached declarations:

For the Lawyers’ Committee, as outlined in the declaration of Jon Greenbaum:

- Jon Greenbaum, Legal Director and Deputy Director for the Lawyers’ Committee: \$475.
- Robert Kengle, Co-Director of the Voting Rights Project for the Lawyers’ Committee: \$475.
- Mark Posner, Senior Counsel at the Lawyers’ Committee: \$475
- Phillip Dupré, Legal Fellow: \$230.
- Elizabeth Cochran, Legal Fellow: \$230.
- Anna Cloeter, Legal Assistant: \$135.

These rates are further supported by the attached declaration of Mr. David Bodney, the Managing Partner of the Phoenix office of Steptoe & Johnson LLP, who states that the rates requested are “consistent with the market rates for

handling complex litigation in Phoenix and certainly not above the median.”

Bodney Decl. at ¶ 10.

For The Sparks Law Firm, P.C., as set forth in the declaration of Joe Sparks:

- Joe Sparks, Partner: \$475.
- Laurel Herrmann, Associate: \$220.

For Steptoe & Johnson, LLP, as set forth in the declaration of David Bodney:

- David Bodney, Partner: \$425.00-\$510.00.
- Karen Hartman-Tellez: \$380.00-\$405.00.

The fees requested for hours expended by each attorney are set out in greater depth below, in the attached declarations, and in the attached Form 9.

### **3. ITCA Appellants’ Expenses are Reasonable**

ITCA Appellants seek \$4,327.08 in recoverable expenses, which are set forth in detail below, as well as in the attached declarations. These expenses include: costs incurred in travel to and from both oral arguments, legal research, and postage expenses incurred sending the hard copies of the documents requested by the Circuit associated with the rehearing en banc. Counsel believed that the expenses requested were reasonably necessary to advance the interests of their clients in obtaining the relief sought.

### C. The Application is Timely

ITCA Appellants believe that the instant application is timely, for the reasons set forth in ITCA Appellants' Motion to Set or Enlarge Date for Application for Attorneys' Fees. Dkt. No. 222. In caution, ITCA Appellants have moved the Court to set a filing deadline for all attorneys' fees for this appeal keyed either to the disposition of the pending motion to stay the mandate or the disposition of the petition for writ of certiorari. In the alternative, ITCA Appellants have moved to enlarge the date for filing until today, May 18, 2012. *Id.*

### V. FEES & EXPENSES CALCULATIONS

#### 1. Lodestar Calculations for Time Claimed

<b>Attorney</b>	<b>Law School Grad Year</b>	<b>Hours</b>	<b>Billing Rate</b>	<b>Fees</b>
Jon Greenbaum	1993	109.55	\$475.00	\$52,036.25
Robert Kengle	1984	58.3	\$475.00	\$27,692.50
Mark Posner	1978	117	\$475.00	\$55,575.00
Phillip Dupré	2009	35.3	\$230.00	\$8,119.00
Elizabeth Cochran	2010	49.8	\$230.00	\$11,454.00
Anna Cloeter	Legal Asst.	24.6	\$135.00	\$3,321.00
Joe Sparks	1969	118.5	\$475.00	\$56,287.50
Laurel Herrmann	2007	51.5	\$220.00	\$11,308.00
David Bodney	1979	14.7	\$425.00-	\$7,064.00

			\$510.00	
Karen Hartman-Tellez	2001	193.1	\$380.00- \$405.00	\$76,009.50
<b>TOTAL</b>		772.35		\$308,866.75

## 2. Expenses

<b>Organization</b>	<b>Description</b>	<b>Amount</b>
Lawyers' Committee	Postage <sup>9</sup>	\$659.32
	Legal Research	\$574.51
	Travel	\$3,093.25
<b>TOTAL</b>		\$4,327.08

## VI. CONCLUSION

WHEREFORE, ITCA Appellants respectfully request that this Court grant fees in the amount of \$308,866.75 and expenses in the amount of \$4,327.08.

Respectfully submitted,

/s Robert A. Kengle  
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<sup>9</sup> This expense was incurred in responding to the Ninth Circuit's request for hard copy documents.

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Fax: 404-653-0331

AARP FOUNDATION  
LITIGATION  
Daniel B. Kohrman  
601 E Street, N.W., Suite A4-240  
Washington D.C. 20049  
Telephone: 202-434-2064  
Fax: 202-434-6424

**CERTIFICATION OF COMPLIANCE FOR CASE NO. 08-17115**

I hereby certify that the foregoing Application for Attorneys' Fees and Expenses complies with the page limitation of Fed. R. App. P. 27(d)(2) because it does not exceed 20 pages. I further certify that the foregoing Application for Attorneys' Fees and Expenses complies with the type style and typeface requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in a proportionately spaced typeface using MS Word in 14-point Times New Roman.

Dated this 18th day of May, 2012.

s/ Robert A. Kengle  
Attorney for ITCA Appellants

## CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2012, I electronically filed the foregoing document with the Clerk of the Court for the United State Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed a copy of foregoing document by First-Class Mail, postage prepaid, to the following non-CM/ECF participants:

Samuel R. Bagenstos  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530

Charles E. Borden  
O'Melveny & Myers LLP  
1625 Eye Street, N.W.  
Washington, DC 20006

Melvin R. Bowers Jr.  
Navajo County Attorney's Office  
P.O. Box 668  
Holbrook, AZ 86025

Kali Nneka Bracey  
Jenner & Block LLP  
1099 New York Avenue, NW  
Suite 900  
Washington, DC 20001

Scott J. Detamore  
Mountain States Legal Foundation  
2596 South Lewis Way  
Lakewood, CO 80227

Karl J. Sandstrom  
Perkins Coie LLP  
700 13th Street, NW  
Washington, DC 20005-3960

James P. Walsh Jr.  
Pinal County Attorney  
30 N. Florence St.  
Building D  
Florence, AZ 85232

/s Robert A. Kengle

Office of the Clerk  
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT  
P.O. Box 193939  
San Francisco, California 94119-3939

Molly C. Dwyer  
Clerk of Court

(415) 355-8000

**Form 9: APPLICATION FOR ATTORNEYS FEES  
Under Ninth Circuit Rule 39-1.6**

9th Cir. No.  Case Name:  v.

***DESCRIPTION OF SERVICES***

***HOURS***

Interviews & Conferences	<input type="text" value="52.7"/>
Obtaining & Reviewing Records	<input type="text" value="94.2"/>
Legal Research	<input type="text" value="101"/>
Preparing Briefs	<input type="text" value="315.5"/>
Preparing for & Attending Oral Argument	<input type="text" value="183.35"/>
Other (specify below):	<input type="text" value="25.6"/>

TOTAL Hours Claimed

**TOTAL COMPENSATION REQUESTED:** \$

Signature  Date

A request for an award of attorneys fees must be supported by a memorandum showing that the party seeking fees is legally entitled to them and must be accompanied by Form 9 or a document that contains substantially the same information, along with:

- (1) a detailed itemization of the tasks performed each date and the amount of time spent by each lawyer and paralegal on each task;
- (2) a summary for each lawyer and paralegal of the total hours spent in the categories set forth above;
- (3) a showing that the hourly rates claimed are the prevailing rates in the relevant market; and
- (4) an affidavit attesting to the accuracy of the information submitted.

Nos. 08-17094, 08-17115

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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MARIA M. GONZALEZ, et al., )  
 )  
 Plaintiffs-Appellants, )  
 )  
 v. )  
 )  
 STATE OF ARIZONA, et al., )  
 )  
 Defendants-Appellees. )  

---

On appeal from the United States  
District Court for the District of  
Arizona  
  
No. CV06-01268-PHX-ROS  
No. CV06-01362-PHX-ROS

THE INTER TRIBAL COUNCIL )  
OF ARIZONA )  
 )  
 Plaintiffs-Appellants )  
 )  
 )  
 KEN BENNETT, in his official )  
capacity as SECRETARY OF )  
STATE OF ARIZONA, )  
 )  
 Defendants-Appellees. )  

---

**DECLARATION OF JON M.  
GREENBAUM IN SUPPORT  
OF APPELLANTS'  
APPLICATION FOR AWARD  
OF ATTORNEYS' FEES AND  
EXPENSES ON APPEAL**

**DECLARATION OF JON M. GREENBAUM IN SUPPORT  
OF APPELLANTS' APPLICATION FOR AWARD OF ATTORNEYS' FEES AND  
EXPENSES ON APPEAL**

I, Jon M. Greenbaum, declare as follows pursuant to 28 U.S.C. § 1746:

1. Since October 2010, I have been the Chief Counsel and Senior Deputy Director of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee") in Washington, D.C. where I have been employed since 2003. In my current position, I oversee the legal activities of the Lawyers' Committee's Voting Rights Project, as well as the Projects for Community Development, Educational Opportunities, Employment Discrimination, Fair Housing & Fair Lending, and Legal Mobilization. I oversaw the same projects in my position as Legal Director at the Lawyers' Committee from March 2009 to October 2010. From December 2003 to January 2010, I served as the Director of the Committee's Voting Rights Project.

2. My organization and I are part of the legal team that represents the "ITCA Appellants" in this case, which include Inter-Tribal Council of Arizona, Inc., the Arizona Advocacy Network, the League of Women Voters of Arizona, the League of United Latin American Citizens, and State Representative Steve Gallardo..

3. In this case my role was to supervise the Lawyers' Committee attorneys and staff who worked on the current appeal in this case (Robert Kengle, Mark Posner, Philip Duprè, Elizabeth Cochran, and Anna Cloeter), to participate in strategic litigation discussions and decisions with co-counsel, review and revise briefs, and participate in oral argument (both before the Ninth Circuit panel and the en banc Court).

Experience, reputation and ability of Lawyers' Committee attorneys and staff

4. I am a 1993 graduate of the UCLA School of Law, and have practiced continuously since the Fall of 1993 (more than 18 years of practice). I have focused principally upon federal civil litigation since 1997 and I practiced almost exclusively within the field of voting rights litigation and election law between 1997 and March 2009; since March 2009, when I became Legal Director for the Lawyers' Committee, I have continued to supervise the Committee's voting rights litigation while also supervising litigation in other areas. After working as a litigation associate at Dewey Ballantine from September 1993 to December 1996, I joined the Voting Section in the Civil Rights Division at the United States Department in January 1997 as a trial attorney, a position that I maintained until I moved to the Lawyers' Committee in December 2003. I have brought and litigated the most complex types of federal voting rights litigation, in courts throughout the country. They include *League of Women Voters of Ohio v. Brunner*, 548 F.3d 463 (6<sup>th</sup> Cir. 2008); *Shelby County, Alabama v. Holder*, 811 F.Supp.2d 424 (D.D.C. 2011), *aff'd* May 18, 2012, and *United States v. Charleston County Council*, 316 F. Supp. 2d. 268, 295 (D.S.C. 2003).

5. My experience and expertise in voting rights issues also includes testimony before Congress, state legislatures and the U.S. Commission on Civil Rights, and presentations to numerous law schools and governmental, civic and bar associations. I am the co-chair of the Voting Rights Task Force of the Leadership Conference on Civil Rights, the national umbrella organization of American civil rights groups. I serve as an adjunct professor at the Georgetown University Law Center (teaching a class on voting rights law) and I am the co-author of "Government-Issued Photo Identification and Proof

of Citizenship Requirements for Voters" in America Votes! A Guide to Modern Election Law and Voting Rights (American Bar Association 2008).

6. Robert Kengle currently is Co-Director of the Lawyers' Committee's Voting Rights Project, and has served in that position since February 2010. In that position, he serves as the immediate supervisor of all Lawyers' Committee litigation in the area of voting rights. From July 2007 to February 2010, he served as Senior Counsel for the Lawyers' Committee's Voting Rights Project.

a. Mr. Kengle is a 1984 graduate of Antioch School of Law in Washington, DC. He is a member in good standing of the bars of the State of Maryland and the United States District Court for the District of Maryland.

b. Mr. Kengle has focused on federal voting rights law and litigation throughout his career. He joined the Voting Section in the Civil Rights Division at the United States Department of Justice as a trial attorney in 1984. He served as Special Counsel and then Acting Deputy Chief in the Voting Section between 1996 and 1999. In 1999, he became a Deputy Chief of the Section, and continued in that position until he left the Department of Justice in April 2005. He did not seek to actively practice law from that time until July 2007, when he joined the Voting Rights Project of the Lawyers' Committee.

c. At the Department of Justice, Mr. Kengle litigated voting rights cases in federal district courts throughout the country. As a trial attorney, he routinely brought and litigated the most complex types of federal voting rights litigation involving racial discrimination and non-compliance with federal laws. As Special Counsel and Deputy Chief, he routinely supervised such litigation. Among the cases he supervised

were the first two cases brought to enforce Section 8 of the National Voter Registration Act, which concerns voter list maintenance.

d. At the Lawyers' Committee, Mr. Kengle has continued to litigate, and supervise the litigation of, federal voting rights cases. This includes the instant case, cases brought under Sections 5 and/or 7 of the NVRA in Georgia, Indiana, New Mexico, and Ohio, cases brought under Section 5 of the Voting Rights Act involving Florida, Georgia, South Carolina, and Texas, and cases in which the Lawyers' Committee has intervened to defend the constitutionality of Section 5 of the Voting Rights Act.

e. Mr. Kengle's experience and expertise in voting rights issues includes written testimony before Congress and presentations to governmental and private audiences at symposia and other conferences. He was the author of an extensive report documenting the history of voting rights violations in Georgia that was entered into the record during Congress' 2006 consideration of reauthorizing special provisions of the Voting Rights Act. He also serves as an adjunct professor at the Georgetown University Law Center teaching a class on voting rights law.

7. Mark Posner has been a Senior Counsel in the Lawyers' Committee's Voting Rights Project since February 2010. He originally joined the Lawyers' Committee on a volunteer basis in September 2008, and then worked at the Lawyers' Committee on a part-time basis from January 2009 through January 2010.

a. Mr. Posner graduated Order of the Coif from U.C. Berkeley School of Law in 1978. He is a member of the District of Columbia Bar and an inactive member of the California Bar.

b. After graduating from law school, Mr. Posner clerked for the Honorable Harry Pregerson, who then was serving as a U.S. District Court Judge in Los Angeles. Mr. Posner then was a Fellow at the Center for Law in the Public Interest in Los Angeles, and joined the Civil Rights Division of the Department of Justice in November 1980. He served as an attorney in the Division for 23 years, until June 2003, including serving 15 years in the Division's Voting Section (from 1980 through 1995). In the Voting Section, Mr. Posner initially focused on litigation, including redistricting cases involving the State of Georgia and the City of Chicago. Subsequently, he supervised the review of voting changes submitted to the Attorney General for preclearance under Section 5 of the Voting Rights Act, and served as Deputy Director of the Section 5 Unit and Special Counsel for Section 5. After he left the Voting Section, he worked on both litigation and administrative issues in other subject matter areas handled by the Civil Rights Division. From 2003 to 2008, he worked as an independent contractor, and as an adjunct professor at the University of Maryland Law School and the American University's Washington College of Law.

c. Mr. Posner's experience and expertise in voting rights issues includes written testimony before Congress in 2005 regarding reauthorization of Section 5 of the Voting Rights Act, and extensive written scholarship regarding Section 5 (a book chapter and two law review articles). He also recently served as an adjunct professor at the Georgetown University Law Center teaching a class on voting rights law.

d. At the Lawyers' Committee, his work has included litigation of the appeal in this action, litigation brought under Sections 5 and/or 7 of the NVRA in Georgia, Indiana, and New Mexico, cases brought under Section 5 of the Voting Rights

Act involving Florida, Georgia, South Carolina, and Texas, and cases in which the Lawyers' Committee has intervened to defend the constitutionality of Section 5 of the Voting Rights Act.

8. Two junior attorneys who served as one-year law firm fellows at the Lawyers' Committee worked on the instant appeal. Phillip Dupré is a 2009 graduate of Georgetown University Law Center, and is a member of the District of Columbia and Texas Bars. He currently is employed as an associate by the law firm of Mayer Brown. Elizabeth Cochran is a 2010 graduate of the University of Virginia Law School, and then joined the Virginia Bar. Anna Cloeter has B.A. from University of Mary Washington, and is employed as a Legal Assistant at the Lawyers' Committee.

9. Time and labor required. Attached to this Declaration is an itemization for the hours the Lawyers' Committee expended in this litigation on appeal (Exhibit A). This listing is an accurate itemization of the total number of hours Lawyers' Committee staff worked on the post-trial appeal, including the rehearing en banc, from October 2008 to June 2011 (when oral argument was held before the en banc Court).

10. Hourly rate. The Lawyers' Committee provides representation to clients, such as our clients in this case, who are unable to pay for the legal services required to litigate their claims and vindicate their federally-protected rights. We therefore do not generally bill clients for our legal services, and we obtain no compensation unless we are successful. Therefore, an appropriate hourly rate for Lawyers' Committee attorneys is determined by assessing the rates charged by private attorneys in the relevant markets. Based upon information regarding the prevailing rates charged by attorneys of similar

experience, reputation and skill in the Phoenix Area, as set forth in the declaration of our co-counsel David Bodney, we request the following rates:

<b>Name</b>	<b>Title</b>	<b>Year Graduated</b>	<b>Hourly Rate</b>
Jon Greenbaum	Legal Director and Deputy Director	1993	\$475
Robert Kengle	Co-Director Voting Rights Project	1984	\$475
Mark Posner	Senior Counsel	1978	\$475
Philip Duprè	Fellow	2009	\$230
Elizabeth Cochran	Fellow	2010	\$230
Anna Cloeter	Legal Assistant	--	\$135

11. This Court's precedents suggest that it also would be appropriate to look to the rates prevailing in Washington, D.C., where the Lawyers' Committee's office is located. Attached as Exhibit B is the Laffey Matrix, a document prepared by the Department of Justice for use in determining attorneys' fees rates in cases such as this case where the prevailing party is able to recover fees. The Laffey Matrix is frequently used by the District of Columbia Circuit and the United States District Court for the District of Columbia to determine the appropriate level of fees for cases in the District of Columbia. Under the Laffey Matrix, the 2011-12 rates would be as follows:

<b>Name</b>	<b>Title</b>	<b>Year Graduated</b>	<b>Hourly Rate</b>
Jon Greenbaum	Legal Director and Deputy Director	1993	\$435
Robert Kengle	Co-Director Voting Rights Project	1984	\$495
Mark Posner	Senior Counsel	1978	\$495
Philip Duprè	Fellow	2009	\$240

Name	Title	Year Graduated	Hourly Rate
Elizabeth Cochran	Fellow	2010	\$240
Anna Cloeter	Legal Assistant		\$140

12. Reasonableness of time expended and overall lodestar request. The overall lodestar request is in my judgment wholly reasonable and necessary in light of the importance of this case to the voting rights and interests of the appellants and of hundreds of thousands of citizens who register to vote in Arizona. This matter was appropriately staffed, reflecting a consistent effort among all co-counsel to limit the expenditure of time to what was needed to achieve a fully successful result from the litigation. While a number of attorneys participated in the case, high-level tasks were focused within a core group of senior attorneys, and more straightforward tasks were generally handled by more junior attorneys, without sacrificing the quality of the product. In particular, the core group of attorneys at the Lawyers' Committee working on the appeal included myself and Messrs. Kengle and Posner: I focused on providing strategic advice and high-level review of the three briefs that were filed (the initial Appellants' brief to the panel, the reply brief, and the brief in opposition to the petition for rehearing en banc), and I argued the case for Appellants before the panel and the en banc Court; Messrs. Kengle and Posner participated in strategic discussions, conducted a portion of the legal research, engaged in substantial drafting and editing of the three briefs, and assisted in preparing me for oral argument. The more junior attorneys also conducted legal research and assisted in preparations for oral argument.

13. I have reviewed the hours claimed to ensure that they are reasonable and appropriate. In addition, to ensure that our application is reasonable, we are not seeking

fees for one-third of the hours set forth in Attachment A for the two law fellows, and also are seeking fees for only 50% of the travel time connected to attendance at oral argument.

14. Based upon my experience in federal district court and appellate litigation, the hours requested for this appeal are extremely reasonable. Because compliance with federal voter registration laws is an issue of paramount public importance, reasonable compensation for the outstanding results achieved in this case is precisely the policy result Congress intended when it permitted attorneys' fees to be recovered under the NVRA.

15. Costs and Expenses. The Lawyers' Committee has incurred a total of \$4,327.08 in costs and expenses in connection with the post-trial appeal and the rehearing en banc. The detail regarding the expenses is attached as Exhibit C. The travel costs incurred by Lawyers' Committee staff were for me to participate in the oral arguments before the Ninth Circuit panel and the en banc Court, and for Mr. Kengle to accompany me as co-counsel at the en banc argument. The postage expense was to send the hard copies of the documents requested by the Circuit associated with the rehearing en banc.

16. We did not necessarily record time for every instance in which we discussed this case among members of the Lawyers' Committee staff or with co-counsel. The billing reflects those meetings at which strategic or important tactical decisions were deliberated. Any discrepancy between the reported time of one individual and that of others reflects a decision to exercise billing judgment by not recording time, rather than an inaccuracy in the time records.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on this 18th day of May 2012.



JON M. GREENBAUM

# **EXHIBIT A**

**To the Declaration of Jon Greenbaum**

**Lawyers' Committee Complete Matter Report**

*Summary of time for ITCA v Brewer from Oct 2008 to June 2011*

**Cloeter~Anna**

<b>Bill Date</b>	<b>Hours</b>	<b>Comments</b>
5/2/2011	10.1	printing copies of all materials (25 copies of opening brief, reply brief, excerpts of record vol I, excerpts of record vol II, determine how to bind all materials, preparing certificates of paper brief, purchasing paper and binding supplies, binding opening briefs, stapling reply brief (10.1
5/3/2011	10.5	hole punch and bind 25 copies of excerpt of record volume I; pack box with opening brief, reply brief and excerpts of record volume I for mailing; schedule pick-up; hole-punch and bind 21 copies of excerpts of record volume II (10.5).
5/20/2011	0.3	complete and submit acknowledgment of hearing notice (.3)
6/3/2011	0.6	locate and organize documents for use by J. Greenbaum in preparation for hearing (.6)
6/6/2011	0.3	print and bind documents for use by J. Greenbaum in preparation for en banc hearing (.3)
6/13/2011	0.3	burn disk containing ITCA EOR vol 1 and ITCA EOR vol 2 for DOJ (.3)
6/14/2011	1	update pleadings (.3); find and print original Mountain States, American Unity, and Allied Education amicus briefs (.2); lexis research to get cases for j. greenbaum for use in preparation for hearing (.5)
6/15/2011	1.5	find cases for J. Greenbaum, search congressional record for items listed under "other authorities" in TOA of Docket # 199-2 (1.2); download, update, and file recent pleadings (.3)
<b>Total</b>	<b>24.6</b>	

**Cochran~Elizabeth**

<b>Bill Date</b>	<b>Hours</b>	<b>Comments</b>
12/13/2010	7.5	Law of Circuit Research

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12/14/2010	1.4 Law of Circuit Research
12/15/2010	6.7 Law of Circuit Research
12/16/2010	5.1 Law of Circuit Research
12/17/2010	4.7 Law of Circuit Research
12/20/2010	6.9 Law of Circuit Research
12/21/2010	1 Law of Circuit Research
12/29/2010	3.5 Research on law of the circuit (other circuits)
12/30/2010	4 Research on law of the circuit (other circuits)
1/3/2011	5 Research on law of the circuit - other circuits
1/4/2011	2 Law of the circuit research
1/5/2011	5.5 Research on law of the circuits - other circuits
1/6/2011	5.3 Law of the circuit research
1/27/2011	3.7 Law of the circuit research (1.6); Cite check (1.1); Read brief (1)
4/29/2011	0.5 Discussion with Jon on law of the circuit doctrine as it pertains to en banc courts (.5)
5/18/2011	5.5 Research on the application of the law of the circuit doctrine to en banc courts (5.5)
5/19/2011	3 Research on the application of the law of the circuit doctrine to en banc courts (3)
6/13/2011	1 Assembled cases for Jon Greenbaum to use in oral argument (1)
6/16/2011	2 Moot of Jon Greenbaum (2)
<b>Total</b>	<b>74.3</b>

Dupre-Phil

<b>Bill Date</b>	<b>Hours</b>	<b>Comments</b>
9/21/2009	1.7	meeting regarding Prop 200 oral argument, reviewing ITCA briefs and opinions
9/22/2009	3.8	reviewed and began to organize ITCA/Prop 200 documents in anticipation of oral arguments.
9/23/2009	2	reviewed ITCA briefs, created outline for binders in preparation for oral argument
9/24/2009	3.3	conference call regarding oral arguments, discussed organization of binders with B. Kengle, began compiling documents for oral argument
9/25/2009	1.7	preparing outline for binders in anticipation of oral argument
9/28/2009	1.7	helping to organize binder for Prop 200 oral arguments

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9/29/2009	2.6 helping to organize binder for Prop 200 oral argument; Law of the Case research.
10/1/2009	3.7 law of the case research
10/5/2009	6.2 researching law of the case; compiling binder for oral argument
10/6/2009	3.6 meeting with Jon regarding ITCA; compiling binders; legal research
10/7/2009	5.2 legal research on ITCA case; preparing binder for oral arguments
10/8/2009	5.7 legal research on ITCA case; preparing binder for oral arguments
10/9/2009	4.2 legal research on ITCA case; preparing binder for oral arguments
10/13/2009	3.3 legal research for oral arguments, moot court for oral arguments
10/14/2009	2.6 oral argument preparation
10/19/2009	1.4 conference call moot in preparation for oral argument
<b>Total</b>	<b>52.7</b>

**Greenbaum~Jon**

<b>Bill Date</b>	<b>Hours</b>	<b>Comments</b>
12/30/2008	2.1	Review and revise 9th Circuit brief (1.5); conference with co-counsel re same (.6)
1/1/2009	1.2	Review 9th circuit brief; conference with B. Kengle re same
1/2/2009	3	Review and revise appellate brief
2/9/2009	0.7	Call with co-counsel re reply brief
9/8/2009	0.2	review documents from the 9th Circuit
9/9/2009	0.2	Conference with D. Bodney re oral argument
9/17/2009	0.7	review 9th circuit documents re oral argument (.4); conference with B. Kengle and S. Greene re same (.3)
9/18/2009	0.5	review briefs
9/21/2009	1.5	review briefs (1.0); meet to discuss preparation for oral argument (.5)
9/29/2009	0.3	Conference with P. Dupre re appellate argument
9/30/2009	0.5	Conferences with co-counsel re oral argument
10/5/2009	1.5	reviewed law of the case memo (.7); conference with P. Dupre about law of the case memo (.3); reviewed briefs filed by parties re law of the case issue (.5)

10/6/2009 1.5 Prepared for oral argument  
 10/7/2009 2 Prepared for oral argument  
 10/8/2009 2 Prepared for oral argument  
 10/9/2009 2 Prepared for oral argument  
 10/13/2009 7 prepare for oral argument  
 10/14/2009 6 prepare for oral argument (including first moot)  
 10/15/2009 4 prepare for oral argument  
 10/18/2009 4.5 50% of travel from Baltimore to Arizona (total was 5.0);  
 prepare for oral argument (2)  
 10/19/2009 4.5 Moot and preparation for moot (2.5); 50% of Travel from  
 Phoenix to Tucson (total was 4.0)  
 10/20/2009 11.75 Prepate for oral argument (5.5); attend oral argument (2.0);  
 50% of travel from Tucson to Washington DC (total was  
 8.5)  
 12/17/2010 0.5 review outline; review opposition briefs  
 12/20/2010 1 review rehearing motion and amicus briefs  
 12/21/2010 0.8 Call with co-counsel re response to en banc request  
 1/20/2011 0.5 call with T. Hudson re response to motion for rehearing  
 1/26/2011 1 review and revise opposition to petition for rehearing  
 1/31/2011 0.3 File response to petition for rehearing  
 4/28/2011 0.3 review court order and discuss with co-counsel  
 4/29/2011 0.6 meet with team to discuss supplemental filing (.3); review  
 9th circuit rules (.2); telephone call with 9th circuit staff  
 attorney re scheduling and filing (.1)  
 5/18/2011 0.5 oral argument issues  
 5/21/2011 0.1 e-mail counsel for Gonzalez re oral argument  
 6/2/2011 0.2 draft memo to A. Cloeter re compiling cases and briefs for  
 argument preparation  
 6/7/2011 1.3 prepare for oral argument  
 6/8/2011 1.1 communicate with B. Arnwine, B. Kengle, M. Posner and co-  
 counsel regarding need to file motion allocating time  
 6/9/2011 0.9 revise and file motion to allocation time (.5); correspond  
 with co-counsel re same (.4)  
 6/10/2011 4.3 prepare for oral argument (4); Review MALDEF brief and  
 correspond with co-counsel re same (.3)  
 6/11/2011 2.2 draft reply brief re allocation of time and discuss brief with  
 B. Kengle and M. Posner  
 6/13/2011 0.3 file reply brief  
 6/14/2011 4.2 prep for oral argument

6/15/2011	6.6 prepare for oral argument
6/16/2011	3.8 moot (1.8); prep for moot/oral argument (1.2); meet with MALDEF and DOJ counsel re oral argument (.8)
6/17/2011	3 prep for oral argument
6/18/2011	2.3 prep for oral argument
6/20/2011	5.35 50% travel from DC (total was 4.7); preparation for argument on plane (3.0)
6/21/2011	7 prepare for argument (4.5); participate in argument (1.5); 50% of travel to hotel (total was 1.0); e-mail co-counsel and clients re argument (.5)
6/22/2011	3.75 50% of travel from Los Angeles to Washington DC (total was 7.5)
<b>Total</b>	<b>109.55</b>

Kengle~Robert

<b>Bill Date</b>	<b>Hours</b>	<b>Comments</b>
12/17/2008	1.5	Review first section Steptoe draft of opening brief (1.5)
12/19/2008	1	Review second section Steptoe draft of opening brief (1.0) Review/edit draft brief and confer w/ Posner re: draft
12/23/2008	4	opening brief (4.0) Review and begin edits on second draft of opening brief (3.5) Prepare comments on draft opening brief email
12/31/2008	4.2	Karen H. (.7)
1/1/2009	3.2	Edits to second draft opening brief (3.2)
1/2/2009	7.2	Finish edits to second draft opening brief (7.2)
1/4/2009	1.6	Review/edit final draft opening brief (1.6) Review/edit final draft opening brief & send edits to Karen
1/5/2009	3.8	H. (3.8)
2/3/2009	1	Review state response to opening brief (1.0)
2/18/2009	2	Edits to reply brief (2.0)
2/20/2009	0.6	Final edits to reply brief (.6)
6/9/2009	0.5	Review & discuss allocation of argument brief (.5) Call to S. Greene re: case status (.5) review & discuss
6/11/2009	1.1	allocation of argument reply brief (.6)

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9/21/2009	0.5 Meet with co-counsel to discuss appeal (.5)
9/22/2009	0.5 Meet with client AZAN (.5)
9/24/2009	1.2 Argument prep assistance (1.2)
9/30/2009	0.8 Argument prep assistance (.8)
11/23/2010	0.8 Amicus request response (.3) Amicus brief review (.5) Review rehearing opp. brief outline and discuss with 1.5 Posner (1.5)
12/14/2010	3 Edits to rehearing opp. brief (3.0)
1/19/2011	Edit rehearing brief and confer with co-counsel Hudson 0.7 (.7)
1/20/2011	0.8 Edits to draft rehearing opp. (.8)
1/26/2011	1 Edits to draft rehearing opp. (1.0)
1/27/2011	1.8 Moot court for Greenbaum (1.8)
6/16/2011	3.75 50% of Travel from Balt MD to L.A. (total was 7.5)
6/20/2011	Assist J. Greenbaum in argument prep (4.5) attend 6.5 argument (1.5) 50% of travel to hotel (total was 1.0)
6/21/2011	3.75 50% of Travel from L.A. to Balt MD (total was 7.5)
6/22/2011	
<b>Total</b>	<b>58.3</b>

Posner~Mark

<b>Bill Date</b>	<b>Hours</b>	<b>Comments</b>
10/1/2008	10	Review file
10/8/2008	1	Assign & review research assignment with legal intern
11/21/2008	1	Review research prepared by legal intern
12/23/2008	9	Review draft brief; discussion with co-counsel & with amicus attorney
12/30/2008	1	Review draft brief; discussion with co-counsel
1/1/2009	12	Edit draft brief
1/4/2009	1	Review draft brief
2/3/2009	2	Read & analyze State's response brief
2/18/2009	7	Edit ITCA reply brief
2/19/2009	1.5	Edit ITCA reply brief
2/20/2009	1	Edit ITCA reply brief
4/10/2009	0.5	Review amicus briefs

- 6/24/2009 1.1 Review proposed Az legislation amending voter ID req't; email co-counsel: 1.1
- 9/21/2009 1 Re-read our brief in preparation for discussion of oral arg: 0.5  
Meeting re: prep. for oral arg.: 0.5
- 10/6/2009 1 Prepare for oral argument: 1.0
- 10/13/2009 2.9 Prepare for moot court: 2.9
- 10/14/2009 2 Prepare for moot court: 0.5  
Moot court: 1.5
- 10/19/2009 1.3 Moot court: 1.3
- 12/10/2010 1.5 Research "law of the circuit"
- 12/13/2010 2.6 Draft outline of memo in opp to en banc: 2.0  
Discuss substance of brief w/ B. Kengle: .6
- 12/14/2010 4 Prepare outline of brief: 3.8  
Discuss possible request for extension w/B. Kengle: .2
- 12/20/2010 0.4 Review MALDEF brief in opp to en banc petition; email brief & draft outline of our brief  
to co-counsel & internal memo re law of case & circuit: .4
- 12/21/2010 2.1 Review 9th Circuit rules: .3  
Review MALDEF brief in opp to en banc petition: .3  
Tel conf w/co-counsel: .5  
Draft motion for ext of time & tel con with Ds' counsel: 1.0
- 12/22/2010 1.3 Draft motion for extension of time
- 12/23/2010 1.2 Finalizing motion for ext of time: 1.2
- 12/28/2010 0.2 Check PACER status of request for extension; telephone 9th Cir clerk's office
- 1/7/2011 0.6 Reply brief issues: 0.6
- 1/10/2011 0.8 Draft reply brief re en banc consideration
- 1/17/2011 6.4 Prepare draft brief opposing en banc petition
- 1/18/2011 9.2 Draft brief in opp to en banc petition
- 1/19/2011 1.5 Finalize draft of 9th Cir brief in opp to en banc petition
- 1/20/2011 0.7 Discuss draft brief with B. Kengle; review 9th Cir rules on en banc review: .4  
T/c with T. Hudson, & B. Kengle & J. Greenbaum re 9th Cir brief strategy: .3
- 1/24/2011 2.6 Edit brief in opp to en banc petition: 2.6
- 1/25/2011 3.5 Edit brief in opp to en banc petition: 3.3  
Discuss draft with J. Greenbaum: .2

1/26/2011	2.7 Edit brief; legal research; emails with J. Greenbaum & B. Kengle re law of the circuit & law of the case argument: 2.7
1/27/2011	7.8 Finalize brief in opp to en banc petition, including editing, legal research, email consultation with co-counsel, and final review: 7.8
1/30/2011	0.8 Final review of brief: .8
6/8/2011	2.7 Motion to allocate time
6/9/2011	1.1 Motion to allocate time
6/11/2011	1.1 Emails with Greenbaum & Kengle re drafting reply on motion to allocate time: 1.1
6/13/2011	1.5 Reply brief re motion to allocate time
6/14/2011	Legal research re NVRA claim: .5
	0.7 Legal research: .2
	Review oral argument with J. Greenbaum: .3
	Review DOJ amicus brief: .2
6/15/2011	2.2 Review Az brief in response to DOJ; prepare for moot court: 2.2
6/16/2011	1.5 Moot court
	<b>Total</b> <u>117</u>
	<b>Report Total</b> <u>436.45</u>

Name	Interviews & Conferences		Obtaining & Reviewing Records		Legal Research		Drafting Briefs		Preparing for & Attending Oral Argument		Other: Locating, organizing, and printing documents		Total
Cloeter, Anna											24.6		24.6
Cochran, Elizabeth					47.8 (0.67 x 71.3)				2.0 (0.67 x 3)				49.8
Dupre, Phil					11.9 (0.67 x 17.7)				23.5 (0.67 x 35.0)				35.3
Greenbaum, Jon	4.3		1.9				8.4		95				109.6
Kengle, Robert	2.1		0.8				37.6		17.8				58.3
Posner, Mark	6.5		11.5		2.2		79.3		17.5				117

# **EXHIBIT B**

**To the Declaration of Jon Greenbaum**

**LAFFEY MATRIX -- 2003-2012**  
**(2009-10 rates were unchanged from 2008-09 rates)**

Experience	Years (Rate for June 1 - May 31, based on prior year's CPI-U)								
	03-04	04-05	05-06	06-07	07-08	08-09	09-10	10-11	11-12
20+ years	380	390	405	425	440	465	465	475	495
11-19 years	335	345	360	375	390	410	410	420	435
8-10 years	270	280	290	305	315	330	330	335	350
4-7 years	220	225	235	245	255	270	270	275	285
1-3 years	180	185	195	205	215	225	225	230	240
Paralegals & Law Clerks	105	110	115	120	125	130	130	135	140

*Explanatory Notes:*

1. This matrix of hourly rates for attorneys of varying experience levels and paralegals/law clerks has been prepared by the Civil Division of the United States Attorney's Office for the District of Columbia. The matrix is intended to be used in cases in which a "fee-shifting" statute permits the prevailing party to recover "reasonable" attorney's fees. *See, e.g.*, 42 U.S.C. § 2000e-5(k) (Title VII of the 1964 Civil Rights Act); 5 U.S.C. § 552(a)(4)(E) (Freedom of Information Act); 28 U.S.C. § 2412 (b) (Equal Access to Justice Act). The matrix does **not** apply in cases in which the hourly rate is limited by statute. *See* 28 U.S.C. § 2412(d).
2. This matrix is based on the hourly rates allowed by the District Court in *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354 (D.D.C. 1983), *aff'd in part, rev'd in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984), *cert. denied*, 472 U.S. 1021 (1985). It is commonly referred to by attorneys and federal judges in the District of Columbia as the "Laffey Matrix" or the "United States Attorney's Office Matrix." The column headed "Experience" refers to the years following the attorney's graduation from law school. The various "brackets" are intended to correspond to "junior associates" (1-3 years after law school graduation), "senior associates" (4-7 years), "experienced federal court litigators" (8-10 and 11-19 years), and "very experienced federal court litigators" (20 years or more). *See Laffey*, 572 F. Supp. at 371.
3. The hourly rates approved by the District Court in *Laffey* were for work done principally in 1981-82. The Matrix begins with those rates. *See Laffey*, 572 F. Supp. at 371 (attorney rates) & 386 n.74 (paralegal and law clerk rate). The rates for subsequent yearly periods were determined by adding the change in the cost of living for the Washington, D.C. area to the applicable rate for the prior year, and then rounding to the nearest multiple of \$5 (up if within \$3 of the next multiple of \$5). The result is subject to adjustment if appropriate to ensure that the relationship between the highest rate and the lower rates remains reasonably constant. Changes in the cost of living are measured by the Consumer Price Index for All Urban Consumers (CPI-U) for Washington-Baltimore, DC-MD-VA-WV, as announced by the Bureau of Labor Statistics for May of each year.
4. Use of an updated *Laffey* Matrix was implicitly endorsed by the Court of Appeals in *Save Our Cumberland Mountains v. Hodel*, 857 F.2d 1516, 1525 (D.C. Cir. 1988) (en banc). The Court of Appeals subsequently stated that parties may rely on the updated *Laffey* Matrix prepared by the United States Attorney's Office as evidence of prevailing market rates for litigation counsel in the Washington, D.C. area. *See Covington v. District of Columbia*, 57 F.3d 1101, 1105 & n. 14, 1109 (D.C. Cir. 1995), *cert. denied*, 516 U.S. 1115 (1996). Lower federal courts in the District of Columbia have used this updated *Laffey* Matrix when determining whether fee awards under fee-shifting statutes are reasonable. *See, e.g.*, *Blackman v. District of Columbia*, 59 F. Supp. 2d 37, 43 (D.D.C. 1999); *Jefferson v. Milvets System Technology, Inc.*, 986 F. Supp. 6, 11 (D.D.C. 1997); *Ralph Hoar & Associates v. Nat'l Highway Transportation Safety Admin.*, 985 F. Supp. 1, 9-10 n.3 (D.D.C. 1997); *Martini v. Fed. Nat'l Mtg Ass'n*, 977 F. Supp. 482, 485 n.2 (D.D.C. 1997); *Park v. Howard University*, 881 F. Supp. 653, 654 (D.D.C. 1995).

# **EXHIBIT C**

**To the Declaration of Jon Greenbaum**

## Lawyers' Committee Fees &amp; Costs

## Expenses

Date	Amount	Payee	Description
2/20/2009	\$13.73	LexisNexis	Legal Research
3/20/2009	\$3.40	LexisNexis	Legal Research
9/30/2009	\$98.69	LexisNexis	Legal Research
10/18/2009	\$227.60	Jon Greenbaum	Airfare for travel from DC to 9th Circuit oral argument
10/18/2009	\$189.46	Jon Greenbaum	Lodging for travel to 9th Circuit oral argument
10/18/2009	\$21.00	Jon Greenbaum	Taxi for travel to 9th Circuit oral argument
10/18/2009	\$15.68	Jon Greenbaum	Dinner for travel to 9th Circuit oral argument
10/18/2009	\$10.00	Jon Greenbaum	Tips for travel to 9th Circuit oral argument
10/19/2009	\$183.98	Jon Greenbaum	Lodging for travel to 9th Circuit oral argument
10/19/2009	\$21.00	Jon Greenbaum	Taxi for travel to 9th Circuit oral argument
10/19/2009	\$49.99	Jon Greenbaum	Shuttle for travel to 9th Circuit oral argument
10/19/2009	\$17.00	Jon Greenbaum	Dinner for travel to 9th Circuit oral argument
10/19/2009	\$5.25	Jon Greenbaum	Breakfast for travel to 9th Circuit oral argument
10/20/2009	\$128.70	Jon Greenbaum	Airfare for travel to DC from 9th Circuit oral argument
10/20/2009	\$8.00	Jon Greenbaum	Taxi for travel to 9th Circuit oral argument
10/20/2009	\$14.00	Jon Greenbaum	Taxi for travel to 9th Circuit oral argument
10/20/2009	\$8.80	Jon Greenbaum	Lunch for travel to 9th Circuit oral argument
10/20/2009	\$15.24	Jon Greenbaum	Dinner for travel to 9th Circuit oral argument
10/20/2009	\$362.97	LexisNexis	Legal Research
2/23/2011	\$40.11	LexisNexis	Legal Research
5/18/2011	\$659.32	Federal Express	Shipping briefs & other materials to 9th Cir. in San Francisco
5/21/2011	\$339.38	Jon Greenbaum	Airfare for travel from DC to 9th Circuit en banc oral argument & return
6/18/2011	\$995.40	Robert Kengle	Airfare for travel from DC to 9th Circuit en banc oral argument & return
6/20/2011	\$156.73	Robert Kengle	Lodging for travel to 9th Circuit en banc oral argument
6/20/2011	\$30.00	Robert Kengle	Taxi for travel to 9th Circuit en banc oral argument
6/20/2011	\$105.11	Jon Greenbaum	Lodging for travel to 9th Circuit en banc oral argument
6/20/2011	\$86.77	Jon Greenbaum	Rental car for travel to 9th Circuit en banc oral argument
6/20/2011	\$6.82	Jon Greenbaum	Lunch for travel to 9th Circuit en banc oral argument
6/20/2011	\$7.50	Jon Greenbaum	Breakfast for travel to 9th Circuit en banc oral argument
6/20/2011	\$71.27	Jon Greenbaum	Dinner for 2 for travel to 9th Circuit en banc oral argument
6/21/2011	\$141.96	Robert Kengle	Lodging for travel to 9th Circuit en banc oral argument
6/21/2011	\$92.79	Jon Greenbaum	Lodging for travel to 9th Circuit en banc oral argument
6/21/2011	\$13.32	Jon Greenbaum	Breakfast for travel to 9th Circuit en banc oral argument

6/21/2011		\$13.00	Jon Greenbaum		Parking for travel to 9th Circuit en banc oral argument
6/21/2011		\$23.00	Jon Greenbaum		Gas for travel to 9th Circuit en banc oral argument
6/22/2011		\$51.00	Jon Greenbaum		Parking for travel to 9th Circuit en banc oral argument
6/22/2011		\$7.50	Jon Greenbaum		Breakfast for travel to 9th Circuit en banc oral argument
6/22/2011		\$36.00	Robert Kengle		Airport Parking for travel to 9th Circuit en banc oral argument
7/31/2011		\$38.00	LexisNexis		Legal Research
7/31/2011		\$16.42	LexisNexis		Legal Research
9/14/2011		\$1.19	LexisNexis		Legal Research
<b>Total</b>		<b>\$4,327.08</b>			

Nos. 08-17094, 08-17115

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MARIA M. GONZALES, et al.,	)	On appeal from the United States
	)	District Court for the District of
Plaintiffs-Appellants,	)	Arizona
	)	
v.	)	No. CV06-01268-PHX-ROS
	)	No. CV06-01362-PHX-ROS
STATE OF ARIZONA, et al.,	)	
	)	
Defendants-Appellees.	)	
<hr/>		
THE INTER TRIBAL COUNCIL OF	)	
	)	
Plaintiffs-Appellants,	)	
	)	
v.	)	
	)	
KEN BENNETT, in his official capacity	)	
as SECRETARY OF STATE OF	)	
ARIZONA,	)	
	)	
Defendants-Appellees.	)	
<hr/>		

**DECLARATION OF JOE SPARKS IN SUPPORT OF  
ITCA APPELLANTS' MOTION FOR ATTORNEYS' FEES AND COSTS**

I, Joe P. Sparks, declare as follows, pursuant to 28 U.S.C. § 1746:

1. I am the President of The Sparks Law Firm, P.C. I make this declaration in support of the ITCA Appellants' Motion for Attorneys' Fees and Costs in

the above-captioned case. I am thoroughly familiar with the facts, proceedings, law, and arguments in this case, and am fully competent to testify to the matters set forth in this declaration.

**Attorneys Included in the Fee Request**

2. This request for fees and expenses includes the fees for my time and the time of my associate, Laurel A. Herrmann, and the costs incurred in relation to the legal services we have provided in this matter.
3. I graduated with a Juris Doctor degree from the University of Arizona in 1969. I was admitted to the State Bar of Arizona in 1969 and placed third on the 1969 Arizona Bar Examination. I and have since been admitted to practice in the United States District Court for the District of Arizona, the United States Court of Appeals for the Ninth Circuit, the United States Court of Federal Claims, and the United States Supreme Court.
4. I was a member of the Law Review of the University of Arizona College of Law. See, "*The Indian Stronghold and Spread of Urban America*", Arizona Law Review Indian Law Symposium, Vol. 10, No. 3 (1968).
5. I am an AV rated Attorney by Martindale-Hubbell, and have been recognized in the Martindale-Hubbell Bar Register of Preeminent Lawyers in America for many years.
6. I served as a member of the President's National Advisory Environmental

Control Council from 1970 – 1972; the President’s National Air Quality Board from 1972 – 1975; the American Bar Association Liaison to Congress for Power Plant and Transmission Line Siting, 1972 – 1976.

7. I have been a frequent contributor and presenter in publications, seminars and training sessions concerning Indian issues, Indian law, voting rights, political and human rights of indigenous peoples, environmental and resources and issues. See, *“What’s This I Hear About Indian Water Rights”*, Arizona Waterline, Chapter 3, p. 33 (1984).
8. In 1971, I opened my own Law Firm, and have managed and maintained this practice continuously since then. Since its establishment, a primary focus of this Firm’s practice has been issues of significance to Indian and indigenous peoples. In recent years, my practice has almost exclusively centered on the representation of Indian Tribes, and the Inter Tribal Council of Arizona (“ITCA”).
9. I have served as General Counsel, *pro bono*, for the Inter Tribal Council of Arizona since 1972. As General Counsel, I have provided the ITCA with legal services related to a variety of subject matters, including civil rights, voting rights, reapportionment of legislative and congressional districts, voter education, registration, access to the polls and casting of ballots, and environmental justice.

10. In addition to my work for the ITCA, I have worked for various Indian Tribes in Arizona and New Mexico throughout my career. I have extensive experience in representing and advising Tribes on various matters, including civil and voting rights, resources, property rights (including water rights), jurisdiction, Spanish, Mexican and American Treaties, environmental justice, environmental protection, and traditional religious and cultural issues.
11. My law practice for 43 years has been in complex litigation and appeals in State and Federal courts. I have multiple reported cases in the Arizona Supreme Court, the District court the District of Arizona, the 9<sup>th</sup> Circuit Court of Appeals and the United States Supreme Court.
12. Of particular relevance here, are cases in Federal Court before three judge panels to contest Arizona legislative actions on behalf of Arizona Indian Tribes, which were found to be unconstitutional under Article 1, Section 2 of the U. S. Constitution, and/or in violation of other Federal law. Under both cases I was awarded attorneys' fees and costs, as a prevailing party. See, *Goddard, San Carlos Apache, et al v. Bruce Babbitt, et al*, 536 F.Supp. 538, (D.Ariz. 1982); *Goddard, San Carlos Apache, et al, v. Bruce Babbitt*, 547 F.Supp. 373, (D.Ariz. 1982); and *Arizonans For Fair Representation, et al, v. J. Fife Symington*, 828 F.Supp. 684 (D.Ariz. 1992).

13. My associate, Laurel A. Herrmann, graduated with honors from The George Washington University with a Juris Doctor degree in 2007. She was admitted to the State Bar of Arizona in 2008, and has been admitted to practice before the United States District Court for the District of Arizona and the United States Court of Appeals for the Ninth Circuit. She has been employed by my Firm since 2007, and works primarily with issues facing Tribal clients.
14. I supervised Ms. Herrmann's work performed in this case, as well as the work performed by each member of my staff which relates to this case.

**Time Reasonably Billed to this Case**

15. From August, 2008 to April 2012, I spent a total of 118.5 hours and Ms. Herrmann spent 51.5 hours working on the appeals in this case.
16. During this time, our work included drafting, revising and editing draft briefs and other court documents, advising and conferring with co-counsel to achieve consolidated positions in documents to be filed with the court to conserve judicial resources, and reviewing and analyzing all documents filed in the case.
17. Our Firm keeps time to the tenth of an hour. All attorneys and staff members of my Firm keep detailed and accurate accounts of the time they spend on the tasks they perform. Although we generally perform our work

for the Inter Tribal Council of Arizona *pro bono*, we nevertheless keep detailed records of the time we spend on services provided to the ITCA in a computerized timekeeping program. A printout from this program is attached here as Exhibit A. This printout shows in detail the amount of time spent on this case, and the costs incurred for this case between August, 2008 and April, 2012. I have reviewed this document, and to the best of my knowledge, the descriptions of work contained in the document, and the notations of time spent on the various tasks described are accurate.

18. This request seeks only to recover fees and costs which are reasonable, non-duplicative, and related to tasks which were necessary for our work in attaining a positive result for our clients.
19. I have excluded from this request all paralegal time necessary to receive, track, recover, produce and E-file documents related to this matter.

#### **Billing Rates**

20. Due to the nature of my practice and commitment to providing legal services to Tribal clients, my Firm often bills our Tribal and Indian clients at rates which are below that which our Firm and others typically charge for similar work for other clients in the Phoenix, Arizona area.
21. It is my belief that the rate of \$475.00 per hour for my time, and \$220.00 for Ms. Herrmann's time in this request are reasonable and well within the

range charged by other law firms performing similar work during this time period. See, "*Economics of Law Practice in Arizona 2007*", State Bar of Arizona. (Exhibit B.)

22. Although we have performed our work for the ITCA in this matter pro bono, our typical billing rates during the applicable period were as follows:

**The Sparks Law Firm, P.C. Hourly Billing Rates**

**2008 Hourly Billing Rates**

	<b><u>JPS</u></b>	<b><u>LH</u></b>	<b><u>Paralegal</u></b>
Non-Tribal Clients	\$400 - \$450	\$200	\$185
Tribal	\$250	\$200	\$130

**2009 Hourly Billing Rates**

	<b><u>JPS</u></b>	<b><u>LH</u></b>	<b><u>Paralegal</u></b>
Non-Tribal Clients	\$410 - \$460	\$205	\$185
Tribal	\$255	\$205	\$130

**2010 Hourly Billing Rates**

	<b><u>JPS</u></b>	<b><u>LH</u></b>	<b><u>Paralegal</u></b>
Non-Tribal Clients	\$420 - \$470	\$220	\$190
Tribal	\$260	\$210	\$145

**2011 Hourly Billing Rates**

	<u>JPS</u>	<u>LH</u>	<u>Paralegal</u>
Non-Tribal Clients	\$430 - \$480	\$220	\$190
Tribal	\$265	\$215	\$150

**2012 Hourly Billing Rates**

	<u>JPS</u>	<u>LH</u>	<u>Paralegal</u>
Non-Tribal Clients	\$440 - \$490	\$220	\$190
Tribal	\$270	\$220	\$155

**Summary of Total Hours Spent**

23. In lieu of filing Form 9, the following information is submitted pursuant to Ninth Circuit Rule 39-1.6:

**Description of Services Hours**

Interviews and Conferences	22.7 hours
Obtaining and Reviewing Records	77.3 hours
Legal Research	3.3 hours
Preparing Briefs	46.2 hours
Preparing for and Attending Oral Argument	19.5 hours
Other (specify) – Docketing	1.0 hours

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Total Hours Claimed 170.0 hours

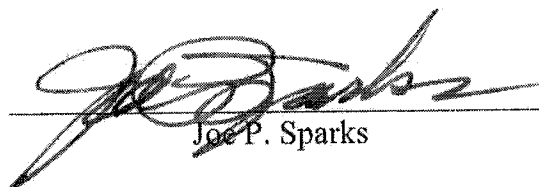
Joe P. Sparks - 118.5 hours x \$475 per hour = \$56,287.50

Laurel Herrmann - 51.5 hours x \$220 per hour = \$11,308.00

Total Compensation Requested **\$67,595.50**

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and accurate.

Executed on May 18, 2012, in Scottsdale, Arizona.

  
Joe P. Sparks

**EXHIBIT A**

**THE SPARKS LAW FIRM, P.C.**7503 First Street  
Scottsdale, AZ 85251

(480) 949-1339 Office

(480) 949-7587 Fax

May 18, 2012

Invoice submitted to:

Atty File # 200.07

Inter Tribal Council of Arizona, Inc.  
2214 N. Central Avenue, #100  
Phoenix, AZ 85004

Invoice # 1000

**Please put above Invoice  
Number on your payment****LEGAL SERVICES INVOICE**

In Reference To: ITCA - Proposition 200 Fees

## Professional Services

		<u>Hours</u>
8/20/2008	JPS Review/analyze 4 pg. Order granting Gonzalez Pla's Motion to amend post-trial brief.	0.10
	JPS Review/analyze 3 pg. judgment in favor of defendants.	0.10
	JPS Review/analyze 51 pg. Order regarding Findings of Fact and Conclusions of Law and terminating case.	0.10
	JPS Review/analyze 4 pg. Clerk Judgment regarding court order in favor of defendant.	0.10
	JPS Review/analyze 52 pg. Order regarding findings of fact and conclusions of law.	0.90
	JPS Receipt and review of pleading, Order Granting Plas' [1036] Motion to Amend Post-Trial Brief (4 pages).	0.10
	JPS Receipt and review of pleading, Clerk's Judgment That Pursuant to the Court's Order Filed 8/20/08, Judgment is Entered in Favor of Defendants and Against Plaintiff. Plaintiff to Take Nothing, and Complaint and Action are Dismissed (4 pages).	0.10
8/22/2008	JPS Review/analyze 5 pg. notice extending due date for opening brief in Gonzalez.	0.10
8/26/2008	LAH Review/analyze Court's conclusions of law and findings of fact and order in Prop 200 case.	1.00
9/4/2008	JPS Receipt and review of pleading, Joint Motion to Reopen Case to Reflect Admission of Exhibits by Inter Tribal Council of Arizona, Inc. and Jesus M. Gonzalez (11 pages).	0.10

Inter Tribal Council of Arizona, Inc.

Page 2

Atty File # 200.07

Invoice # 1000

5/18/2012

		<u>Hours</u>
9/8/2008	JPS Receipt and review of pleading, Order Granting in Part and Denying in Part Motion for Admission of Trial Exhibits by Jesus M. Gonzalez (47 pages).	0.40
9/9/2008	JPS Receipt and review of a letter from Sara Greene regarding Judge Silver's decision and appeal issues (2 pages).	0.10
9/16/2008	JPS Receipt and review of pleading, Notice of Appeal to Ninth Circuit (4 pages).	0.10
9/18/2008	JPS Receipt and review of pleading, Notice of Appeal Notification Form; Notice of Appeal and copy of docket sheet transmitted to Ninth Circuit (4 pages).	0.10
9/19/2008	JPS Call to JL re notice of Appeal in Prop 200. Letter to K Hartman-Tellez re same; confr Elizabeth re format and final for fax.	1.00
	JPS Receipt and review of a fax to Karen Hartman-Tellez regarding Notice of Appeal (2 pages).	0.10
	JPS Receipt and review of a fax to Sara Green regarding Notice of Appeal (2 pages).	0.10
	JPS Receipt and review of a fax to John Lewis regarding Notice of Appeal (2 pages).	0.10
	JPS Receipt and review of Notice Of Appeal Notification Form	0.10
9/22/2008	JPS Receipt and review of pleading, Notice of Appeal: Civil Appeals docketing sent to 9th Circuit on this date (3 pages).	0.10
9/24/2008	JPS Receipt and review of a fax to John Lewis regarding attached is the Notice of Appeal filed Friday September 19, 2008 on behalf of ITCA (3 pages).	0.10
9/25/2008	JPS Receipt and review of Order of Ninth Circuit: Time Schedule Order Setting Briefing Schedule (7 pages).	0.10
9/26/2008	JPS Call to K Hartman re 9th Circ. Order re schedule of due dates; fax to JL memo with copy of Order.	1.20
9/29/2008	JPS Receipt and review of pleading, Filed Representation Notice of David B. Rosenbaum, Thomas L. Hudson, Sara S. Greene, David J. Bodney, Karen J. Hartman-Tellez, Jon M. Greenbaum, Robert A. Kengle, Neil Bradley, Daniel B. Kohrman, Joe P. Sparks (3 pages).	0.10
	JPS Receipt and review of pleading, Filed Appellants Arizona Advocacy Network, Steve M. Gallardo, Hopi Tribe, League of United Latin American Citizens Arizona, League of Women Voters of Arizona and The Inter Tribal Council of Arizona, Inc. Civil Appeals Docketing Statement. Served on 9.19.08 (3 pages).	0.10
	JPS Receipt and review of pleading, Docketed Cause and Entered Appearances of Counsel (10 pages).	0.10
9/30/2008	JPS Receipt and review of pleading, Notice of Appeal (4 pages).	0.10

Inter Tribal Council of Arizona, Inc.

Page 3

Atty File # 200.07

Invoice # 1000

5/18/2012

Hours

9/30/2008	JPS	Receipt and review of pleading, Notice of Appeal (4 Pages).	0.10
10/2/2008	JPS	Reviewed and analyzed pleading, Time Schedule Order (4 pages).	0.10
	JPS	Receipt and review of a fax addressed to John Lewis regarding Gonzalez v. State of Arizona Revised Schedule (3 pages).	0.10
	JPS	Receipt and review of a memo from the U.S. Court of Appeals for the Ninth Circuit regarding a copy of your notice of appeal has been received in the Clerk's Office (1 page).	0.10
10/21/2008	JPS	Reviewed and analyzed an email from Elizabeth Stark regarding Motion to Consolidate Appeals (9 pages).	0.10
10/23/2008	JPS	Receipt and review of Voluntary Appearance and Stipulated Motion for Stay of Proceedings (6)	0.10
	JPS	Receipt and review of Notice of Docket Activity on filing of Motion to Consolidate Appeals (4)	0.10
	JPS	Receipt and review of Notice of Electronic Filing with Order denying as moot Motion to Reopen Case (4)	0.10
	JPS	Reviewed and analyzed pleading, Motion to Consolidate Appeals by Defendant-Appellees State of Arizona and Arizona Secretary of State (9 pages).	0.10
	JPS	Reviewed and analyzed pleading, Order denying as moot [1043] Motion to Reopen Case to Reflect Admission of Exhibits (3 pages).	0.10
	JPS	Reviewed and analyzed pleading, Filed Appellee State of Arizona and Arizona Secretary of State Motion to Consolidate Appeals (4 pages).	0.10
11/2/2008	JPS	Receipt and review of docket entry from US Court of Appeals with Gonzalez Plaintiffs-Appellants' Response to Motion to Consolidate Appeals by Defendant-Appellees State of Arizona and Arizona Secretary of State (9)	0.10
	JPS	Receipt and review of Gonzalez Plaintiffs Appellants response to Motion to Consolidate Appeals by Defendant Appellees State of Arizona & Arizona Secretary of State.	0.10
11/5/2008	JPS	Receipt and review of Order from Court granting Appellees motion to consolidate appeal	0.10
12/4/2008	JPS	Draft Memo to ITCA regarding status; confr LM regarding Opening Brief date; fax to ITCA;	0.40
	LAH	Research for JPS the deadline for filing the Prop 200 appeal opening brief; make telephone calls to Karen Hartman-Tellez, Sarah Greene and David Rosenbaum for information.	0.30

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			<u>Hours</u>
12/8/2008	JPS	Receipt and review of order granting Appellants motion for extension of time.	0.10
12/15/2008	LAH	Receipt and review of an email from Dan Kohram regarding send a brief reply agreeing to participation at the appellate stage on the merits as co-counsel (1 page).	0.10
12/16/2008	JPS	Receipt and review of an email from David Rosenbaum regarding agreeing on participation at the appellate stage on the merits as co-counsel (3 pages).	0.10
	JPS	Receipt and review of an email from Neil Bradley regarding, ACLU Voting Rights Project agrees on participation at the appellate stage on their merits as co-counsel (3 pages).	0.10
	JPS	Receipt and review of an email from Karen Hartman regarding Steptoe & Johnson agreeing to participate at the appellate stage on the merits as co-counsel (3 pages).	0.10
	JPS	Receipt and review of an email to Dan Kohrman regarding an agreement to participate at the appellate stage on the merits as co-counsel (1 page).	0.10
12/17/2008	JPS	Receipt and review of an email from Jon Greenbaum regarding the lawyers committee agrees to participate at the appellate stage on the merits as co-counsel (2 pages).	0.10
12/30/2008	JPS	Receipt and review of Inter Tribal Council of Arizona Plaintiffs Appellants opening Brief; revise brief and make notes to send back to Karen Hartman;	2.00
1/2/2009	JPS	Study brief and draft revisions to appellate brief and fax comments to Karen Hartman	3.00
1/5/2009	JPS	Receipt, review and revise Draft Opening Brief Documents; make notes to discuss with counsel	3.00
	LAH	Receipt and review email from Karen Hartman-Tellez regarding the Corporate Disclosure Statement for the Opening Brief.	0.10
	JPS	Review note from KHT on corp disclosure statement for ITCA; revise and send back for revision; confr LM regarding same;	0.50
1/7/2009	LAH	Review/analyze the ITCA Appellants' Opening Brief for the Ninth Circuit.	1.40
1/16/2009	JPS	Receipt and review of ECF Notice.	0.10
1/21/2009	JPS	Review and draft notes regarding revisions to Opening Brief re Appellants Maria Gonzalez.	1.00
1/24/2009	JPS	Receipt and review of Order regarding the Opening Brief submitted by Appellants in 08-17094 on 1/21/09 will not be filed because the brief was not served by the scheduled date.	0.60
	JPS	Receipt and review of Appellant's Unopposed Motion for leave to file brief out of time	0.10

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1/26/2009	JPS	Receipt and review of Plaintiffs Appellants unopposed motion for Extension of time to file Opening Brief.	0.10
1/28/2009	JPS	Receipt and review of Order the Amicus Brief submitted by the League of Women Voters is filed.	0.10
1/31/2009	JPS	Receipt and review of Brief Amicus Curiae of National Association of Latino Elected & Appointed Officials Educational Fund in Support of Plaintiff Appellants Maria Gonzalez, for Reversal.	1.00
	JPS	Receipt and review of Order The Amicus Brief submitted by the National Association of Latino Elected & Appointed Officials Educational Fund is filed.	0.10
	JPS	Receipt and review of Brief Amicus Curiae of The League of Women Voters of the U.S. in Support of the Gonzalez Plaintiff- Appellants & Reversal.	0.40
2/3/2009	JPS	Receipt and review of Order The Answering brief Submitted on 2/03/09 is filed.	0.10
2/7/2009	JPS	Receipt and review of Order unopposed motion for leave to file opening brief out of time is granted.	0.10
2/8/2009	JPS	Review of Answering brief of defendant-Appellee Arizona Secretary of State Ken Bennett and draft notes regarding same	1.00
	JPS	Receipt and review of Order The Unopposed Motion for leave to file opening brief out of time is granted.	0.10
2/9/2009	JPS	Receipt and review of Order The Opening Brief submitted on 1/21/09 is filed.	0.10
	LAH	Conference call with Karen Hartman-Tellez and other counsel regarding preparations of the reply brief for the Ninth Circuit.	0.70
2/10/2009	JPS	Receipt and review of Notice of Docket Activity received 10 paper copies of Answering Brief.	0.10
2/11/2009	JPS	Receipt and review of Amicus Curiae Brief of Mountain States Legal Foundation in support of Defendant Appellees urging Affirmance	1.00
2/13/2009	JPS	Receipt and review of Order The Amicus Submitted on 2/11/2009 is filed.	0.10
2/18/2009	JPS	Review appellate brief, make revisions, prepare notes and send to K Hartman regarding draft Reply Brief due Friday;	2.00
	JPS	Receipt and review of draft of Reply Brief from Karen Hartman; draft revisions, recommendations and comments to email to K Hartman;	3.00
2/19/2009	LAH	Review/analyze draft reply brief for Prop 200 appeal and suggested changes from other attorneys (no additional changes suggested).	0.80

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		<u>Hours</u>
2/19/2009	JPS Receipt and review of E mail comments on Reply Brief from Karen Hartman, & Neil Bradley.	0.50
2/20/2009	JPS Receipt and continue drafting revisions to Reply Brief.	1.00
	JPS Receipt and review of Order Appellees unopposed motion for an extension of time to file an Answering Brief is granted.	0.10
	JPS Receipt and review of Order Reply Brief submitted is filed.	0.10
	JPS Receipt and review of E mails, comments on Reply brief from Karen Hartman; confer with staff.	0.60
2/23/2009	JPS Receipt and review of unopposed Joinder to the States motion for extension of time to file Answering Brief by Defendants- Appellees; confer with staff regarding same.	0.20
2/25/2009	JPS Receipt and review of Order granting unopposed motion for an extension of time.	0.10
	JPS Receipt and review of Unopposed Joinder to the States Motion for Extension of time to file Answering Brief.	0.10
	JPS Receipt and review of Order Striking Gonzales Opening Brief because of Error.	0.10
3/2/2009	JPS Receipt and review of Order granting extension of time to file Appellee's Answering Brief;	0.10
3/3/2009	JPS Receipt and review of Notice of Docket Activity Received 10 paper copies of Amicus Brief.	0.10
3/4/2009	JPS Receipt and review of Amended Notice of docket Activity Received 10 paper copies of Reply Brief.	0.10
	JPS Receipt and review of Order granting States motion for an extension of time.	0.10
3/11/2009	JPS Receipt and review of multiple Emails regarding case, Coconino County brief and judicial notice of facts by 9th Circuit;	0.40
3/16/2009	JPS Receipt and review of Multiple E mails Regarding Prop 200, Another Amicus Request, from Evergreen Freedom Foundation. (4)	0.20
3/19/2009	JPS Receipt and review of Statement of Non-Participation in Briefing.(3)	0.10
3/20/2009	JPS Receipt and review of Order The ECF filed on 3/19/09 and entitled correspondence is stricken because of an error. (2)	0.10
3/23/2009	JPS Receipt and review of Notice of Appearance of Laughlin McDonald (4)	0.10
	JPS Review and draft revisions to Answering Brief in Appeal No. 08-17094 of Defendants - Appellees of Arizona & Arizona Secretary of State Ken Bennett (73 pgs)	1.30

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			<u>Hours</u>
3/23/2009	JPS	Receipt and review of Notice of Docket Activity Attorney Neil Bradley Substituted by Laughlin McDonald.(3)	0.10
	JPS	Review and revise Answering Brief in Appeal No. 08-17094 of Twelve County Defendants- Appellees (51) Jesus Gonzalez v. State of Arizona	1.00
3/24/2009	JPS	Receipt and review of Order The Answering Brief of Appellees Jan Brewer & State of Arizona Submitted on 3/23/09 is filed. (5)	0.10
	JPS	Receipt and review of Order The Electronically filed document on 3/23/09 entitled Answering brief is Stricken because of an error in the document. (5)	0.10
	JPS	Receipt & draft revisions related to Answering Brief in Appeal No. 08-17094 of Twelve County Defendant - Appellees. (52 pgs) Maria Gonzalez v. State of Arizona	1.00
	JPS	Receipt and review of Order The Answering Brief Submitted by Jan Brewer on 3/24/09 is filed. (5)	0.10
3/25/2009	JPS	Receipt and review of Notice of Appearance of counsel or Re- Assignment of Counsel within the same office. (4)	0.10
	JPS	Receipt and review of notice of Docket Activity Filed Appellees Jan Brewer & State of Arizona four supplemental excerpts of record on Appeal in 1 Volume. (3)	0.10
3/27/2009	JPS	Receipt and review of Notice of Docket Activity received 10 paper copies of Answering Brief filed by Jan Brewer.(2)	0.10
	JPS	Receipt and review of Notice of Docket Activity filed Appellees four supplemental excerpts of record on Appeal in 1 Volume. (2)	0.10
	JPS	Receipt, review and draft revisions/notes regarding Amicus Curiae Brief. (41)	1.00
	JPS	Receipt and review of Order Amicus Brief will not be filed because of Deficiencies. (5)	0.10
3/30/2009	JPS	Receipt and review of Brief of Amicus Curiae American Unity Legal Defense Fund, Inc. in Support of Appellees and Affirmance and draft notes/revisions. (41)	1.00
	JPS	Receipt and review of Order The Amicus Brief submitted on 3/30/09 is filed. (4)	0.10
3/31/2009	JPS	Receipt and review of Notice of Docket Activity filed Appellants project Vote & southwest Voter Registration Education project four excerpts of record in 5 volumes. (3)	0.10
	JPS	Receipt and review of Amicus Curiae Brief of evergreen Freedom Foundation in support of Defendant- Appellees urging Affirmance.	0.10
	JPS	Receipt and review of Order the electronically filed Amicus Brief is stricken because of an error in the document.(4)	0.10

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3/31/2009	JPS	Receipt and review of Order court is in receipt of Appellees Coconino county Recorder Candace Owens & Election Director Patty Hansen notice of its intent not to file an Answering Brief or to join in any Answering Briefs.	0.10
	JPS	Receipt and review of Amicus Curiae Brief of Evergreen Freedom Foundation in support of Defendant - Appellees Urging Affirmance. (22)	0.40
	JPS	Receipt and review of Order The Amicus submitted by Evergreen Freedom Foundation on 3/31/09 is filed.(4)	0.10
	JPS	Receipt and review of Notice of Docket Activity Received 10 paper copies of Answering Brief filed by Jan Brewer.(3)	0.10
4/2/2009	JPS	Receipt and review of Plaintiffs - Appellants Unopposed Motion for Extension of time to File Reply Brief.(4)	0.10
	JPS	Receipt and review of Brief of Protect Arizona Now, Washington legal Foundation, & Allied Educational Foundation as Amici Curiae in support of Appellees urging affirmance. (32)	0.60
4/3/2009	JPS	Receipt and review of Notice of Docket Activity received 10 paper copies of Amicus Brief filed by Evergreen Freedom Foundation.	0.10
	JPS	Receipt and review of Order The Electronically filed document filed on 4/2/09 & entitled Amicus Brief & motion is Stricken because of an error in the Document. (5)	0.10
	JPS	Receipt and review of Filed ECF Notice of Appearance of Counsel of Chris M. Roll. (1)	0.10
	JPS	Receipt and review of Notice of Docket Activity Added attorney Chris M. Roll. (3)	0.10
4/6/2009	JPS	Receipt and review of Notice of Joinder of Defendants - Appellees Gilbert Hoyos & Laura Dean- Lytle in Defendants -Appellees State of Arizona & Arizona Secretary of State's Answering Brief. (3)	0.10
4/7/2009	JPS	Receipt and review of Order Amicus Brief submitted on April 6, 2009 is filed. (5)	0.10
4/10/2009	JPS	Receipt and review of Order re. Appellant's Unopposed Motion for an Extension of Time to File the Reply Brief for no.08-17094 is Granted (5 pages).	0.10
4/18/2009	JPS	Receipt and review of Plaintiffs-Appellants' Unopposed Motion for Extension of Time to File Reply Brief (50 pages).	1.00
4/20/2009	JPS	Receipt and review of Notice of Docket Activity received 10 paper copies of Amicus Brief filed by Protect Arizona Now. (3)	0.10
5/11/2009	JPS	Receipt and review of Order Appellants unopposed motion for leave to file a late reply brief is Granted.(4)	0.10

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5/20/2009	JPS	Receipt and review of Certificate of Record. (1)	0.10
5/26/2009	JPS	Receipt and review of Notice of Docket Activity correct style of the case. (4)	0.20
5/28/2009	JPS	Conference with paralegal regarding possible caption errors in recent pleading; Review and Revise several times.	0.30
5/29/2009	JPS	Conference with paralegal regarding dissolution of entity named in pleading; Review and Revise several times; call to Ex Dir of Advocacy Network to make them aware of matter;	0.30
6/9/2009	JPS	Receipt and review of Filed Correspondence Vacation Notice of Nina Perales. (1)	0.10
6/24/2009	JPS	Receipt and review of e-mail from Mark Posner regarding ITCA appeal and attached pending state law of the polling place House Bill. (5) ; fax copy to JL.	0.20
9/8/2009	JPS	Receipt and review of Proposition 200 Letters, Maps, and other Documents; confer with staff regarding same.	0.30
	LAH	Advise VLL on preparing fax cover for sending copy of oral argument notice to John Lewis of ITCA.	0.10
9/9/2009	JPS	Confer with staff regarding conference call letter.	0.10
9/11/2009	JPS	Confer with staff regarding conference call letter and telephone call from David Bodney.	0.10
9/14/2009	JPS	Confer with staff regarding Sara Greene.	0.10
9/24/2009	JPS	Moderate conference call with parties regarding oral argument on October 20, 2009 in Tucson and selection of Jon Greenbaum as speaker for group; Call to V to arrange call;	0.40
9/30/2009	JPS	Receipt and review of a letter to Office of the 9th Circuit Clerk from Joe P. Sparks regarding acknowledgment of Hearing Notice. (2); send to J Lewis at ITCA;	0.20
	JPS	Receipt and review of a letter to Molly C. Dwyer from Nina Perales regarding write an amicus brief regarding its position. (5)	0.20
10/7/2009	JPS	Receipt and review of a pleading, Order regarding approving the substitution of counsel of record for the Pascua Yaqui Tribe. (1)	0.10
10/8/2009	JPS	Receipt and review email from Bob Kengle to prepare for the ninth circuit argument for which we will be holding two moot courts. (1)	0.10
	JPS	Receipt and review of an email from Bob Kengle to Firm regarding Jon Greenbaum of the Lawyers' Committee will be arguing on behalf of the ITCA Plaintiffs. (1)	0.10

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			<u>Hours</u>
10/9/2009	JPS	Receipt and review of email from John Lewis to Joe P. Sparks regarding Indian issues at the Prop 200 hearing. (1)	0.10
10/16/2009	JPS	Receipt and review of an email from Linda Brown to Firm regarding observers will not be able to get into the courtroom auditorium without a ticket. (2)	0.10
10/17/2009	JPS	Receipt and review of a letter from Barbara A. Bailey to Molly Dwyer regarding citation of supplemental authorities - review citations and draft revisions to same. (16)	0.50
	JPS	Receipt and review of an email from Linda Brown of the Arizona Advocacy to Firm regarding thank you. (3)	0.10
	JPS	Receipt and review of an email from Michael Valder to Firm regarding hearing. (3)	0.10
10/19/2009	JPS	Read multiple E Mails from Counsel (:30); confr V regarding information to John and Alberta; prepare and participate in Moot Court preparation by Confr Call (11:30 am -1:24 pm);	2.40
	JPS	Conference call attendance at Moot Court held at Steptoe & Johnson regarding Gonzalez vs. State of Arizona;	2.00
	JPS	Facsimile to John Lewis and Alberta Tippeconnic from Joe P. Sparks regarding hearing instructions. (10)	0.20
10/20/2009	LAH	Travel to and attend the Ninth Circuit Court of Appeals oral argument at University of Arizona Law School; return to office.	7.00
	JPS	Prepare and travel to Tucson for 9th Circuit Oral argument and return; (6 am - 2:15 pm)	8.30
6/7/2010	LAH	Research electronic filing notification received from the Ninth Circuit Court of Appeals to determine relevance to this firm. Discuss circumstances of our receipt of this email notice with NLD. (It was sent regarding prop 200 appeal, which was not clearly stated on the notice). Discuss findings with JPS.	0.70
	JPS	Confer with staff regarding 9th Circuit Court of Appeals.	0.10
6/11/2010	JPS	Receipt and review of Terminated Andrew Peyton Thomas regarding Case No. 09-15281, Case Name: Somos America v. Maricopa County Board of Supervisors. (5); confr LH regarding same;	0.30
7/7/2010	JPS	Receipt/Review Notice of Appearance of Counsel or Reassignment of Counsel within the Same Office from the 9th Circuit Court of Appeals;	0.10
	JPS	Receipt and review of Substitute Attorney. (1)	0.10
10/26/2010	JPS	Receipt and review of Opinion, Case Name: Maria M. Gonzalez v. State of Arizona, Case No. 08-17094. (93); call from Linda Brown; call to John Lewis - draft notes to incorporate into appellate briefs and discuss with counsel.	5.00

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			<u>Hours</u>
10/26/2010	LAH	Receipt and review of Ninth Circuit Court of Appeals opinion and dissent.	2.60
10/28/2010	JPS	Receipt and review of Motion for Seven Day Extension of Time For Filing Petition For Rehearing En Banc. (5); read FRAP on response to same; call to Karen Tellez regarding same;	0.60
	JPS	Receipt and review of email from Jon Greenbaum attaching Motion for 7-Day Extension of Time For Filing Petition For Rehearing En Banc. (12)	0.40
10/29/2010	JPS	Receipt and review of email from Jon Greenbaum regarding Arizona Request Seven Say Extension to File Its En Banc Petition. (14)	0.20
	JPS	Receipt and review of email from Mark Posner regarding Arizona Request Seven Say Extension to File Its En Banc Petition. (1)	0.10
	JPS	Receipt and review of email from Jon Greenbaum regarding to David Rosenbaum regarding Arizona Request Seven Say Extension to File Its En Banc Petition. (1)	0.10
	JPS	Receipt and review of email from David Rosenbaum regarding Arizona Request Seven Say Extension to File Its En Banc Petition. (1)	0.10
	JPS	Receipt and review of email from Jon Greenbaum to Thomas Hudson regarding Arizona Request Seven Day Extension to File Its En Banc Petition. (1)	0.10
	JPS	Receipt and review of email from Thomas Hudson to Jon Greenbaum regarding Arizona Request Seven Say Extension to File Its En Banc Petition. (1)	0.10
	JPS	Receipt and review of email from Jon Greenbaum to Thomas Hudson regarding Arizona Request Seven Day Extension to File Its En Banc Petition. (9)	0.30
	JPS	Receipt and review of email from Thomas Hudson to Jon Greenbaum regarding Arizona Request Seven Say Extension to File Its En Banc Petition. (1)	0.10
	JPS	Receipt and review of Order regarding Appellees' Request For Extension of Time to File Petition For Rehearing En Banc is Granted. (3)	0.10
	JPS	Receipt and review of email from David Rosenbaum regarding Arizona Request Seven Say Extension to File Its En Banc Petition. (14)	0.40
11/1/2010	LAH	Docket deadlines following the Ninth Circuit Court's decision last week; research statutory right to attorneys fees.	0.90
11/2/2010	LAH	Receipt and review of State's motion for extension of time to file petition for rehearing on banc.	0.10
	LAH	Receipt and review of correspondence between attorneys regarding requests for fees and responses to the request for additional time for motion for rehearing.	0.10
	LAH	Receipt and review of Order granting request for extension of time to file petition for rehearing; docket extended date; research if this order affects due date for filing bill of costs.	0.10

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11/8/2010	JPS	Receipt and review of email from Jon Greenbaum regarding Emergency Motion Under Circuit Rule 27-3. (3)	0.20
	LAH	Receipt and review of emergency motion under Circuit Rule 27-3, related correspondence from co counsel, and order from the Court; docket deadlines for response and reply related to emergency motion.	0.50
	JPS	Receipt and review of Order regarding Appellees Shall File a Response to Appellants' Emergency Motion on November 9, 2010. (4)	0.20
	JPS	Receipt and review of email from David Rosenbaum to Jon Greenbaum regarding Emergency Motion Under Circuit Rule 27-3. (4)	0.10
	JPS	Receipt and review of letter from James Walsh, Pinal County Attorney regarding correction to counsel listing in published Opinion. (2)	0.10
	JPS	Receipt and review of Added Attorney Carrie Jane Brennan for State of Arizona and Jan Brewer. (1)	0.10
	JPS	Receipt and review of Attorneys Barbara Bailey Substituted by Carrie Jane Brennan. (1)	0.10
11/10/2010	JPS	Receipt and review of Notice of Appearance of Carrie Jane Brennan for Jan Brewer and State of Arizona. (2)	0.10
	JPS	Receipt and review of Terminated Sara Greene for the Inter Tribal Council of Arizona, Inc. (1)	0.10
	JPS	Receipt and review of Appellees' Joint Response to Appellants' Emergency Motion Under Circuit Rule 27-3. (48)	1.00
	JPS	Receipt and review of Reply in Support of Emergency Motion For Temporary Stay. (37)	0.70
	LAH	Receipt and review of response to emergency motion.	0.40
11/11/2010	JPS	Receipt and review of Notice of Withdrawal of Marisol Perez and Diego Bernal As Counsel for Gonzalez Plaintiffs. (3)	0.10
11/12/2010	JPS	Receipt and review of Ordered Denying Motion Emergency Motion For Injunction Pending Appeal Filed By Appellants Gonzalez. (9)	0.30
	JPS	Receipt and review of Order Appellants' Emergency Motion is Denied. (11)	0.30
	JPS	Receipt and review of Entered Appearance of Amicus Curiae Mountain States Legal Foundation. (2)	0.20

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		<u>Hours</u>
11/15/2010	LAH Receipt and review of reply to emergency motion and Court's Order regarding emergency motion for temporary stay.	0.80
11/16/2010	JPS Receipt and review of letter to Clerk of the Court from Joel Spector, Mountain States Legal Foundation requesting to amend docket. (6)	0.20
	JPS Receipt and quick review of Appellees State of Arizona and Secretary of State's Petition For Rehearing En Banc. (83); send to John Lewis;	0.20
11/17/2010	JPS Receipt and review of Notice of Appearance of Colleen Connor for Appellees. (2)	0.10
	JPS Receipt and review of Added Attorney Colleen Connor. (2)	0.10
	JPS Receipt and review of a List of Terminated Attorneys. (2)	0.10
	LAH Receipt and review of petition for rehearing; research deadline (if any) to reply.	0.90
11/18/2010	JPS Receipt and review of email from Bob Kengle regarding American Unity Legal Defense filing an amicus brief supporting the petition for rehearing. (4)	0.10
	JPS Receipt and review of email from Jon Greenbaum regarding American Unity Legal Defense filing an amicus brief supporting the petition for rehearing.	0.10
11/19/2010	JPS Receipt and review of Notice of Karen Hartman-Tellez Withdrawal of Counsel. (5)	0.10
11/20/2010	JPS Receipt and review of email from Jon Greenbaum regarding American Unity Legal Defense filing an amicus brief supporting the petition for rehearing. (84)	1.00
11/22/2010	LAH Receipt and review of email from Jon Greenbaum regarding questions regarding group wanting to file amicus brief on petition for rehearing and attaching published opinion; check to see attorney listing is correct in final published version; receipt and review of email response from Bob Kengle.	0.20
	LAH Receipt and review of various pleadings regarding substitution of counsel.	0.10
	JPS Receipt and review of Terminated Karen Hartman-Tellez for the Inter Tribal Council of Arizona and Hopi Tribe. (1)	0.10
11/23/2010	JPS Receipt and review of letter to Clerk of Court from Joel Spector, Mountain States Legal Foundation re Appellees' Petition for Rehearing En Banc. (7); note to LH regarding same;	0.30
11/24/2010	LAH Receipt and review of letter of Amicus Curiae by Mountain States Legal Foundation; research Circuit Committee Advisory Rule cited in the letter and provide to JPS in response to his request for information on amicus letters.	0.30
	JPS Receipt and review of Entered Appearance of Amicus Curiae American Unity Legal Defense Fund. (1)	0.10

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11/26/2010	JPS	Receipt and review of Brief of Amicus Curiae American Unity Legal Defense Fund, Inc. in Support of the Petition For Rehearing En Banc. (28)	1.00
11/29/2010	JPS	Receipt and review of Brief of Amicus Curiae American Unity Legal Defense Fund, Inc. in Support of the Petition For Rehearing En Banc. (28)	1.00
	JPS	Receipt and review of Brief of Protect Arizona Now, Washington Legal & Allied Educational Foundation as Amici Curiae in Support of Appellees for Rehearing En Banc. (29)	1.50
12/2/2010	LAH	Research amicus letters under rules and case law in the 9th Circuit.	1.20
12/10/2010	JPS	Send John Lewis copy of 9th Circuit Court order setting briefing schedule for Inter Tribal Council of Arizona, Inc.; Receipt and review of email from Jon Greenbaum attaching Order. (9) and discussing brief preparation;	0.30
12/13/2010	LAH	Draft and send email to Jon Greenbaum regarding response required by the Court from JPS.	0.20
	JPS	Email note to Jon Greenbaum recommending confr call among attys to discuss approach on brief and request to Court for extension of time thru Jan 31, 2011;	0.20
12/14/2010	JPS	Receipt and review of email from Jon Greenbaum regarding scheduling conference call. (8)	0.10
12/15/2010	LAH	Receipt and review of Order directing Appellants to file a response to Appellee's Motion for Rehearing on Banc. Docket filing deadline.	0.10
12/16/2010	JPS	Receipt and review of e-mail from Jon Greenbaum regarding scheduling conference call. (1)	0.10
12/17/2010	JPS	Receipt and review of Notice of Appearance of Counsel or Re-Assignment of Counsel Within the Same Office. (4)	0.10
	JPS	E-mail to Laughlin McDonald from Jon Greenbaum regarding conference call on December 21, 2010. (6)	0.20
	LAH	Docket conference call details for call regarding response to motion for rehearing en banc.	0.10
	JPS	Receipt and review of Added Attorney Paula S. Bickett for State of Arizona. (2)	0.10
	JPS	Receipt and review of e-mail from Jon Greenbaum regarding scheduling conference call. (1)	0.10
12/20/2010	JPS	Receipt and review of Response to Appellees State of Arizona and Secretary of State's Petition for Rehearing En Banc. (27)	1.50
	JPS	Receipt and review of e-mail from Mark Posner attaching outline of Appellants' Brief in Opposition to Petition & Response to Appellees Petition for Rehearing - draft notes and revisions to same. (36)	1.00

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5/18/2012

Hours

12/21/2010	JPS	Prepare for and participate in Conference call with attys for parties, except for Gonzales, to coordinate Response brief ordered by 9th Circuit; review and revise draft motion for extension of time;	2.80
	JPS	Receipt and review of e-mail to Mark Posner from Thomas Hudson re draft Appellants' Brief in Opposition to Petition for Rehearing En Banc. (2)	0.20
	JPS	Receipt and review of e-mail from Mark Posner regarding Motion of Inter Tribal Council of Arizona for Extension of Time to File Response is Granted. (5)	0.10
12/22/2010	JPS	Review order dated Dec 10, 2010 for compliance regarding extension of time to file brief; review and revise draft motion/appellate brief and e-mail to Kengle et al with comments;	1.00
12/23/2010	JPS	Read Motion for additional time; e-mail to JL and AT at Inter Tribal Council of Arizona, Inc.; E-mail to Jon Greenbaum regarding same;	0.30
12/28/2010	JPS	Receipt and review of Ordered Motion of Inter Tribal Council of Arizona for Extension of Time to File a Response to the Petition for Rehearing En Banc is Granted. (1)	0.10
	JPS	Receipt and review of e-mail from Jon Greenbaum attaching Order Granting Extension. (2)	0.10
1/6/2011	LAH	Receipt and review of MALDEF's Appellants' Response to Appellees' Petition for Rehearing en Banc and email attaching outline for Inter Tribal Council of Arizona, Inc. Response.	0.50
	LAH	Receipt and review of draft motion for extension of time to file response to petition for rehearing en banc and comments and discussion on draft.	0.20
	LAH	Receipt and review of order from the Ninth Circuit Court of Appeals regarding extension of time to file response to Petition for Rehearing En Banc; docket deadline change.	0.10
1/7/2011	LAH	Receipt and review of correspondence regarding response to petition for rehearing en banc.	0.10
1/25/2011	LAH	Email Tom Hudson and Jon Greenbaum regarding status of draft response to motion for rehearing en banc; receive and review response from Jon Greenbaum and send a reply.	0.30
	JPS	Confr LAH to E mail to plaintiffs' attys for status draft of brief;	0.20
	LAH	Receipt and review of email from Lawyers' Committee for Civil Rights Under Law and attached draft response to motion for rehearing en banc.	1.50
1/26/2011	JPS	Letter to JL and RT sending draft 9th Circ brief and requesting mark up and comments ASAP; read and mark up draft brief; confr LAH regarding her revisions; read Hudson notes on the draft;	4.40

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5/18/2012

Hours

1/26/2011	LAH	Review draft response to petition for rehearing en banc; markup with my suggested revisions; incorporate my suggestions and Joe's edits into one redline draft; review redline draft and sent to Mark Posner.	4.20
	JPS	Receipt and review of email from David Rosenbaum regarding suggestions for draft brief in Opposition to En Banc Petition. (2)	0.20
	JPS	Receipt and review of email from Mark Posner attaching draft brief in Opposition to En Banc Petition. (15)	0.80
1/27/2011	LAH	Draft note to JPS regarding redline draft of response to petition for rehearing en banc sent to Mark Posner; attach to copy of redline for JPS's review.	0.10
	JPS	Receipt and review of email to Thomas Hudson from Mark Posner re finalizing draft Response of Inter Tribal Council of Arizona, Inc. to Appellees' Petition for Rehearing En Banc. (23)	1.00
	LAH	Receipt and review of latest draft response.	0.30
1/28/2011	JPS	Receipt and review of email from Dan Kohrman regarding finalizing draft Response of Inter Tribal Council of Arizona, Inc. to Appellees' Petition for Rehearing En Banc. (1)	0.20
	LAH	Receipt and review of last draft response; receive and review email regarding suggested footnote to include in the response; receipt and review of email requesting information for signature block; respond with the requested information.	0.80
	LAH	Discuss with JPS the final draft of the response to petition for rehearing en banc.	0.20
	JPS	Receipt and review of email from Mark Posner regarding finalizing draft Response of Inter Tribal Council of Arizona, Inc. to Appellees' Petition for Rehearing En Banc. (1)	0.10
2/1/2011	JPS	Draft letter to JL with response Brief to Arizona's Petition for Rehearing En Banc.; 2nd and 3rd drafts;	0.50
	LAH	Revise draft letter to John Lewis regarding filing response to Petition for Rehearing En Banc filed by the State of Arizona in the Gonzalez v. Arizona appeal at the Ninth Circuit.	0.90
2/2/2011	LAH	Revise draft letter to John Lewis regarding filing in Prop 200 appeal.	0.30
2/10/2011	LAH	Receipt and review of Amicus Brief filed by the League of Women Voters.	0.60
4/12/2011	LAH	Research whether the Court has made a decision regarding the petition for rehearing en banc.	0.60
4/27/2011	LAH	Receipt and review of order from 9th Circuit regarding rehearing en banc; discuss with NLD; research number of judges to sit en banc.	0.20

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5/18/2012

Hours

4/28/2011	JPS	Receipt and review of Ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. (5);docket and request ND to send to J Lewis;	0.30
	JPS	Receipt and review of e-mail from Mark Posner attaching Ordered that this case be reheard en banc pursuant to Circuit Rule 35-3. (1)	0.10
	JPS	Receipt and review of Ordered that En Banc oral argument will take place during the week of June 20, 2011 in Pasadena, California. (5)	0.10
	JPS	Receipt and review of e-mail from Mark Posner regarding oral argument will take place during the week of June 20, 2011 in Pasadena, California. (1)	0.10
5/2/2011	LAH	Receipt and review of Order regarding week of rehearing; docket date information.	0.10
5/4/2011	LAH	Receipt and review of letter from Nina Perales to the 9th Circuit Court Clerk regarding scheduling rehearing.	0.10
5/5/2011	JPS	Receipt and review of letter to Clerk of the Court from Nina Perales requesting en banc argument not be scheduled on June 24, 2011. (1)	0.10
	JPS	Receipt and review of Added Attorney Thomas Purcell Liddy. (3)	0.10
	JPS	Receipt and review of Notice of Appearance of Counsel or Re-Assignment of Counsel Within the Same Office. (3)	0.10
5/6/2011	JPS	Prepare, travel and attend Notice the Court received 25 copies of answering brief and supplements from twelve county defendants. (2)	0.10
	JPS	Receipt and review of Motion for Extension of Time for Forwarding Paper Copies. (10)	0.10
	JPS	Receipt and review of Notice the Court received 25 copies of answering brief and supplements from the Inter Tribal Council of Arizona, Inc. (2)	0.10
5/11/2011	JPS	Receipt and review of Court Notice: Received 25 Copies of Maria Gonzalez's EOR in 5 Volumes. (2)	0.10
5/13/2011	JPS	Receipt and review of Court Notice of Received 25 Copies of Maria Gonzalez's Opening Brief, Reply Brief, Supplemental EOR in 1 Volume for Appeal No. 08-17094. (2)	0.10
	JPS	Receipt and review of Filed Notice of Appearance of Thomas Charles Horne for Appellee Ken Bennett in 08-17094, State of Arizona in 08-17115. (3)	0.10
	LAH	Research Proposition 200 case docket on PACER for the Ninth Circuit Court of Appeals; write note to JPS regarding briefs submitted; discuss with JPS.	0.50
5/16/2011	JPS	Receipt and review of Added Attorney Thomas C. Horne for State of Arizona, Ken Bennett in cases 08-17094 and 08-17115. (3)	0.10

Inter Tribal Council of Arizona, Inc.

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5/18/2012

Hours

5/17/2011	JPS	Receipt and review of filed Notice of Appearance of Colleen Connor for Appellee Laura Dean Lytle in 08-17094, 08-17115. (3)	0.10
	JPS	Receipt and review of Received 25 Copies of Answering Brief and Supplemental EOR in 1 Volume by Appellees Ken Bennett and State of Arizona in 08-17094. (2)	0.10
5/18/2011	LAH	Email John Lewis information about oral argument set for June 21, 2011.	0.10
	JPS	Receipt and review of Oral Argument Information and Calendar for June 2011. (9)	0.10
5/19/2011	LAH	Receipt and review of email from Jon Greenbaum to his clients regarding oral argument en banc.	0.10
	JPS	Receipt and review of e-mail from Jon Greenbaum regarding information on hearing before the Ninth Circuit en banc on June 21, 2011. (1); Email to Jon on oral argument;	0.50
	LAH	Receipt and review of email from Jon Greenbaum requesting our input on who should argue the case during the rehearing.	0.10
	JPS	Receipt and review of Ordered that oral argument will be held on June 21, 2011 in Pasadena, California. (6); confr ND to send to John Lewis;	0.20
5/31/2011	LAH	Telephone call from Jon Greenbaum regarding availability for moot argument.	0.10
	LAH	Email Bob Kengle regarding having no objection to AALDEF filing an Amicus brief.	0.10
6/1/2011	JPS	Receipt and review of e-mail from Jon Greenbaum regarding scheduling moot court argument (1)	0.10
	JPS	Receipt and review of e-mail from Bob Kengle regarding request for consent for AALDEF to file an Amicus brief for the en banc hearing. (1)	0.10
	LAH	Telephone call to Bob Kengle regarding Amicus brief request.	0.10
	LAH	Receipt and review of email from Jon Greenbaum; docket moot court details.	0.10
6/2/2011	JPS	Receipt and review of Motion for Leave to File Brief of Amicus Curiae Asian American Legal Defense and Education Fund in Support of Appellants. (28)	0.10
	JPS	Receipt and review of e-mail to Jon Greenbaum from Thomas Hudson regarding oral argument. (1)	0.10
	JPS	Receipt and review of e-mail from Laughlin McDonald regarding oral argument. (1)	0.10
	JPS	Receipt and review of e-mail from Jon Greenbaum attaching court instructions. (9)	0.10
	JPS	Receipt and review of Court Notice - Entered Appearance of Amicus Curiae - Pending Asian American Legal Defense and Education Fund. (2)	0.10

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			<u>Hours</u>
6/2/2011	JPS	Receipt and review of Court Notice - Received 25 Copies of Letter of Supplemental Authority by Appellees Ken Bennett and State of Arizona. (2)	0.10
	JPS	Receipt and review of Court Notice - Received 25 Copies of Answering Brief and Supplemental EOR in 1 Volume by Appellee Ken Bennett in 08-17115. (2)	0.10
	JPS	Receipt and review of Court Notice - Added Attorney Colleen Connor for Laura Dean-Lytle. (2)	0.10
	LAH	Receipt and review of AALDEF's Amicus brief.	0.20
6/3/2011	JPS	Receipt and review of Order that the Asian American Legal Defense and Education Fund's Motion for Leave to File an Amicus Brief is Granted. (4)	0.10
	JPS	Receipt and review of Brief for the United States as Amicus Curiae Supporting Appellants on Rehearing En Banc and Urging Reversal. (40)	0.60
	JPS	Receipt and review of Order that the Amicus Brief Submitted by Asian American Legal Defense and Education Fund on 6-1-11 is Filed. (2)	0.10
	JPS	Receipt and review of Motion for Leave to File a Brief for the United States as Amicus Curiae Supporting Appellants on Rehearing En Banc and Urging Reversal. (4)	0.20
6/4/2011	JPS	Receipt and review of Motion for Leave to File Brief of Amicus Curiae Asian American Legal Defense and Education Fund in Support of Appellants. (31)	1.00
6/6/2011	JPS	Receipt and review of Added Attorney Thomas Matthew Collins for State of Arizona and Ken Bennett. (2)	0.10
	JPS	Receipt and review of Filed Notice of Appearance of Thomas Matthew Collins for Appellees Ken Bennett and State of Arizona. (2)	0.10
	JPS	Receipt and review of Order that the Clerk Shall File the United States' Late Filed Amicus Brief. (4)	0.10
6/8/2011	JPS	Receipt and review of Motion from the United States to Participate in En Banc Oral Argument as Amicus Curiae Supporting Appellants and Urging Reversal. (4); send brief to J Lewis;	0.20
	JPS	Receipt and review of e-mail from David Bodney regarding request to the court to formally divide appellant's argument time. (1)	0.10
	JPS	Receipt and review of e-mail to Jon Greenbaum from Laughlin McDonald regarding request to the court to formally divide appellant's argument time. (1)	0.10
	JPS	Receipt and review of e-mail from Dan Kohrman regarding request to the court to formally divide appellant's argument time. (2)	0.10

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Hours

6/8/2011	JPS	Receipt and review of e-mail from Jon Greenbaum regarding request to the court to formally divide appellant's argument time. (1)	0.10
	JPS	Receipt and review of e-mail from Jon Greenbaum attaching Nina Perales' response to request the court to formally divide appellant's argument time. (1)	0.10
	JPS	Receipt and review of Ordered that the Amicus Brief Submitted by USA on June 3, 2011 is Filed. (2)	0.10
	LAH	Receipt and review of email attaching response from Nina Perales regarding division of oral argument time.	0.20
	LAH	Receipt and review of the United State's Amicus brief; prepare and send emails to attorneys for Inter Tribal Council of Arizona, Inc.; receipt and review of Protect Arizona Now's response to request to file Amicus brief; receipt and review of other small documents related to Proposition 200 appeal; receipt and review of United States' petition to participate in oral argument; receipt and review of emails regarding division of time at oral argument.	1.90
	JPS	Receipt and review of Added Attorney Michael D. Nolan for Asian American Legal Defense and Education Fund. (1)	0.10
	JPS	Receipt and review of Received 25 Paper Copies of Amicus Brief Filed by Asian American Legal Defense and Education Fund. (1)	0.10
	JPS	Receipt and review of Received 25 Paper Copies of Amicus Brief Filed by USA. (1)	0.10
	JPS	Receipt and review of Filed Notice of Appearance of Michael D. Nolan for Amicus Curiae Asian American Legal Defense and Education Fund. (3)	0.10
6/9/2011	JPS	Receipt and review of Motion of Protect Arizona Now, Washington Legal Foundation, and Allied Educational Foundation for Leave to File Paper Copies of Amicus Curiae Brief. (6)	0.20
	LAH	Receipt and review of email from Jon Greenbaum and responses; review attached draft motion to Court to divide argument time equally between MALDEF and Inter Tribal Council of Arizona, Inc.	0.30
	LAH	Discuss comments from counsel regarding division of time for argument in Prop 200 case and print out correspondence by email for JPS's review.	0.20
	LAH	Receipt and review of filed final motion to Court requesting apportionment of argument time between Gonzales appellants and ITCA appellants.	0.20
	JPS	Receipt and review of e-mail from Jon Greenbaum regarding request to the court to formally divide appellant's argument time. (1)	0.10
	JPS	Receipt and review of Email to Jon Greenbaum from Nina Perales commenting on request to the court to formally divide appellant's argument time. (1)	0.10

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5/18/2012

Hours

6/9/2011	JPS	Receipt and review of Motion for Leave to File Brief of Amicus Curiae Asian American Legal Defense and Education Fund in Support of Appellants. (11)	0.20
	JPS	Receipt and review of e-mail from Jon Greenbaum attaching Motion Inter Tribal Council of Arizona, Inc. for an Apportionment of Oral Argument Time Among Appellants draft by Mark Posner. (11)	0.30
6/10/2011	LAH	Telephone call from Bob Kengle regarding possible reply to response filed by MALDEF; receipt and review of MALDEF's response; discuss with NLD.	0.80
	JPS	Receipt and review of e-mail from Jon Greenbaum regarding reply brief. (1)	0.10
	JPS	Receipt and review of Response to motion of the United States as Amicus Curiae and Inter Tribal Council of Arizona, Inc. Appellants for Divided Argument. (12)	0.30
	JPS	Receipt and review of Ordered that the Motion by Amici Protect Arizona NOW, Washington Legal Foundation, Allied Educational Foundation to allow submission. (2)	0.10
6/12/2011	LAH	Receipt and review of draft reply to MALDEF's response to request for division of oral argument time and associated emails; review MALDEF response; prepare revision to and comments on draft Reply and send to Bob Kengle by email.	1.20
6/13/2011	LAH	Receipt and review of emails regarding comments on draft reply regarding apportionment of oral argument time; receipt and review of filed reply; print out emails received and sent from personal email address over the weekend, for NLD to process and file for the office.	1.00
	JPS	Receipt and review of Motion for Leave to File Proposed Amicus Curiae Supporting Appellees on Rehearing En Banc and Urging Affirmation. (9)	0.60
	JPS	Receipt and review of Received 25 Copies of Amicus Brief Filed 2-11-09 by Amicus Curiae Mountain States Legal Foundation. (1)	0.10
	JPS	Receipt and review of Received 25 Copies of Amicus Briefs Filed on 4-7-09 by Amici Curiae Allied Educational Foundation, Project Arizona Now and WLF. (1)	0.10
	JPS	Receipt and review of Received 25 Copies of Amicus Brief on 3-30-09 by Amicus Curiae American Unity Legal Defense. (1)	0.10
	JPS	Receipt and review of e-mails regarding response to Inter Tribal Council of Arizona, Inc.'s filing of motion. (4)	0.20
	JPS	Receipt and review of Reply Brief of Inter Tribal Council of Arizona Re Motion for Apportionment of Oral Argument Time Among Appellants. (9)	0.30
	JPS	Receipt and review of e-mail from Bob Kengle requesting comments on draft on reply brief of Inter Tribal Council of Arizona, Inc. regarding motion for apportionment of oral argument time among appellants. (1)	0.10

Inter Tribal Council of Arizona, Inc.

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			<u>Hours</u>
6/14/2011	LAH	Receipt and review of motion to submit an Amicus brief by Pamela Barnett, pro se.	0.20
	JPS	Receipt and review of State of Arizona & Secretary of State Ken Bennett's Motion for Leave to File Response Brief to United States' Amicus Brief. (30)	1.00
	JPS	Receipt and review of Ordered that Oral Argument Time for Appellants Shall be Divided Between the Gonzalez Appellants, Inter Tribal Council of Arizona, Inc., and United States. (4)	0.10
	JPS	Receipt and review of Court Notice - entered appearance of Amicus curiae, pending Pamela Barnett. (2)	0.10
	JPS	Receipt and review of Court Notice - added attorney Samuel R. Bagenstos for USA. (2)	0.10
	JPS	Receipt and review of Filed Notice of Appearance of Samuel R. Bagenstos for Amicus Curiae USA. (2)	0.10
6/15/2011	JPS	Receipt and review of Ordered that Capitol Media Services Arizona Public Radio's Request to Audio-Record for Later Broadcast is Granted. (2)	0.10
	JPS	Receipt and review of Court Notice - received 25 copies of Amicus brief filed by members of Congress of the United States.	0.10
	JPS	Receipt and review of e-mail from Mark Posner regarding correction in state's brief. (3)	0.20
	JPS	Receipt and review of Proposed Brief for the United States as Amicus Curiae Supporting Appellees on Rehearing En Banc and Urging Affirmance. (61)	2.00
6/16/2011	JPS	Prepare and participate in moot court preparation for oral argument before 9th Circuit;	1.50
	LAH	Conference call with attorneys for Inter Tribal Council of Arizona, Inc. to help in preparation for Proposition 200 appeal oral argument.	1.50
6/17/2011	JPS	Receipt and review of Order regarding supplemental brief submitted by Appellees Ken Bennett & State of Arizona on 6-14-11 is filed. (2)	0.10
	JPS	Receipt and review of Order that the motion for leave to file a responsive brief is granted. (5)	0.20
6/20/2011	JPS	Call from JL and AT regarding preparation for oral argument on Prop 200	0.30
6/21/2011	JPS	Receipt and review of Argued and Submitted to Alex Kozinski, Harry Pregerson, Pamela Rymer, Susan Graber, Marsha Berzon, Johnnie Rawlinson. (1)	0.10
	JPS	Receipt and review of e-mail from Jon Greenbaum to clients and co-counsel regarding Prop 200 oral argument. (1)	0.10

Inter Tribal Council of Arizona, Inc.

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5/18/2012

Hours

7/8/2011	JPS	Receipt and review of Order That Pamela Barnett's Motion for Leave to File an Untimely Amicus Brief is Denied. (4)	0.10
7/9/2011	JPS	Receipt and review of Request for Clarification of Order. (3)	0.20
7/16/2011	JPS	Receipt and review of Terminated Carrie J. Brennan for State of Arizona in 08-17115 and Ken Bennett in 08-17094. (4)	0.10
	JPS	Receipt and review of Notice of Withdrawal of Assistant Attorney General Carrie J. Brennan as Counsel of Record for Defendants Appellee. (3)	0.10
4/17/2012	LAH	Receipt and review of emails regarding the Ninth Circuit Court of Appeals decision in Gonzalez v. Arizona; discuss with JPS; draft letter to John Lewis regarding decision; review JPS's notes on draft Reply and revise draft Reply accordingly.	2.20
	LAH	Revise letter to Inter Tribal Council of Arizona, Inc. regarding Ninth Circuit Court of Appeals decision in Proposition 200 en banc appeal.	0.30
4/19/2012	LAH	Review and revise draft memo from John Lewis regarding Proposition 200 decision; review JPS's comments on this; review language from letter previously sent to Chairmen of the San Carlos Apache Tribe and Tonto Apache Tribe and consider including in the draft memo; send revised version to Verna Monenerkit by email.	0.80
	LAH	Receipt and review of press release (draft and final) by League of Women Voters regarding Proposition 200 decision by Ninth Circuit Court of Appeals, en banc.	0.30
4/26/2012	LAH	Receipt and review of e-mails from co-counsel regarding motion for stay of mandate; read motion for stay of mandate.	0.30
5/1/2012	LAH	Research Federal Rules to determine deadline for filing response to Motion to Stay Mandate; docket the date and inform JPS.	0.30
5/2/2012	LAH	Listen to proposition 200 oral argument before the 9th Circuit Court of Appeals, en banc; read en banc opinion.	2.30
5/3/2012	LAH	Receipt and review of multiple emails regarding response to Motion to Stay Mandate filed by the State of Arizona; review/analyze draft response drafted by Laughlin McDonald; revise redline and provide to JPS for review; email co-counsel to inform them of the status of our comments and to expect a redline from us shortly; review insert drafted by JPS and other suggested change; combine into one redline draft; research Circuit Rule 41-1; discuss with JPS; draft and send email attaching our redline to co-counsel for ITCA appellants.	3.10
	JPS	Study all emails from co counsel, and draft revisions and inserts for Response to Arizona Motion to Stay Mandate; multiple confs LH re same;	1.50
	LAH	Receipt and review of emails regarding changes to draft response to motion to stay mandate and filing; respond re filing.	0.50

Inter Tribal Council of Arizona, Inc.  
 Atty File # 200.07  
 Invoice # 1000  
 5/18/2012

			<u>Hours</u>
5/4/2012	LAH	Telephone call from NLD regarding communications from Bob Kengle related to filing response to motion to stay mandate; telephone call to Mr. Kengle.	0.20
5/7/2012	LAH	Receipt and review of emails regarding filing response in opposition to motion to stay mandate.	0.30
	LAH	Discuss with JPS update on ITCA filing last Friday.	0.10
	JPS	Draft and final letter to JLewis sending a copy of Response to State Motion to Stay Mandate;	0.50
5/16/2012	JPS	Review Pleadings from atty Perales; review rules and cases on finality for purposes of 9th circuit judgement; calls to Greenbaum and Kendle; multiple confrs JK on research and rules;	2.00
5/17/2012	JPS	Draft/revise Fee Application;	6.00
For professional services rendered			170.00

Timekeeper Summary

<u>Name</u>	<u>Hours</u>	<u>Rate</u>
Joe P. Sparks	118.50	475.00
Laurel A. Herrmann	51.50	220.00

**EXHIBIT B**



# Economics of Law Practice in Arizona

 2007

## Contents

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The Typical Arizona Attorney and Firm ...	5	Law Office Economics .....	32
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Survey Conducted by:  
 The Applied Statistics Laboratory  
 Ann Arbor, Michigan  
 ASLInfo@aol.com • 734-369-6052

## LAW PRACTICE AND LAW FIRM BILLING RATES AND BILLING PRACTICES

### ATTORNEY HOURLY BILLING RATES

The reported 2006 median hourly billing rate is \$225. The average is \$239. Although several interacting factors affect the setting and application of hourly billing rates, Table 24 includes three discrete factors: respondents' size of firm, years in practice and office location. Table 25 identifies respondents' primary source of income, and practice category.

**Table 24**

**2007 Hourly Billing Rates By Firm Size, Years in Practice and Office Location**

Firm Size (Number of Attorneys)	N	Mean	Value by Percentile			
			25th	Median	75th	95th
1	216	\$218	\$175	\$205	\$250	\$300
2	55	245	200	250	300	359
3-6	92	238	191	225	290	350
7-10	36	226	175	213	293	329
11-20	40	241	195	235	275	374
21-50	28	247	183	225	298	389
51 or more	46	329	215	333	401	566
<b>Years in Practice</b>						
1-2	43	\$186	\$165	\$185	\$200	\$270
3-5	51	189	160	190	220	254
6-10	77	217	175	200	263	326
11-15	63	235	200	240	250	333
16-25	113	238	200	250	275	358
26 or more	167	277	200	275	325	450
<b>Office Location by County*</b>						
Maricopa	359	\$243	\$195	\$230	\$295	\$395
Pima	78	238	184	238	278	376
Other	38	228	176	193	300	450
Yavapai	21	225	175	225	275	300
Coconino	11	209	195	200	225	280
Yuma	11	218	200	200	250	350
Mohave	7	241	165	250	300	375
<b>Group Total</b>	<b>515</b>	<b>\$239</b>	<b>\$185</b>	<b>\$225</b>	<b>\$280</b>	<b>\$375</b>

\*Remaining counties not included because of insufficient responses.

Table 25

## 2007 Hourly Billing Rates By Primary Field of Law and Practice Category

Field of Law	N	Mean	Value by Percentile			
			25th	Median	75th	95th
Appellate Practice	6	\$298	\$219	\$288	\$368	\$450
Bankruptcy/Receivership	14	256	211	258	300	400
Business and Commercial Litigation	21	266	200	250	328	393
Collections	6	183	169	188	200	200
Construction Law	24	215	183	215	250	300
Criminal Defense (Private)	24	216	175	200	300	319
Criminal Defense (Public)	8	168	131	163	199	250
Estate Planning, Probate and Trusts	60	242	200	250	286	350
Family Law/Domestic Relations	52	231	200	225	269	309
General Civil Litigation	9	218	183	220	275	305
General Practice	18	222	175	218	253	400
Health and Hospital Law	6	323	179	330	419	550
Intellectual Property	16	274	213	268	300	525
Labor Relations (Management)	8	301	218	275	413	415
Municipal/Public Entity Law	13	178	148	175	225	300
Personal Injury (Defense)	19	172	140	160	200	275
Personal Injury (Plaintiff)	29	214	185	200	250	325
Professional Malpractice (Defense)	8	189	158	190	200	275
Real Estate	63	276	210	275	315	440
General Corporate (Not covered above)	22	257	193	223	291	554
Other	73	240	200	250	258	435
<b>Practice Category</b>						
Sole Practitioner, office outside home	135	\$228	\$200	\$235	\$260	\$300
Sole Practitioner with home office	64	194	150	200	225	300
Sole Practitioner with associates	24	252	200	250	288	456
Sole Practitioner, sharing space	12	246	200	238	300	300
Partner in firm w/2-7 Partners	102	264	225	250	300	350
Partner in firm w/8+ Partners	57	341	275	345	388	553
Associate in firm with 2-7 Partners	63	192	165	180	225	275
Associate in firm with 8+ Partners	49	214	178	200	235	333
Group Total	515	\$239	\$185	\$225	\$280	\$375

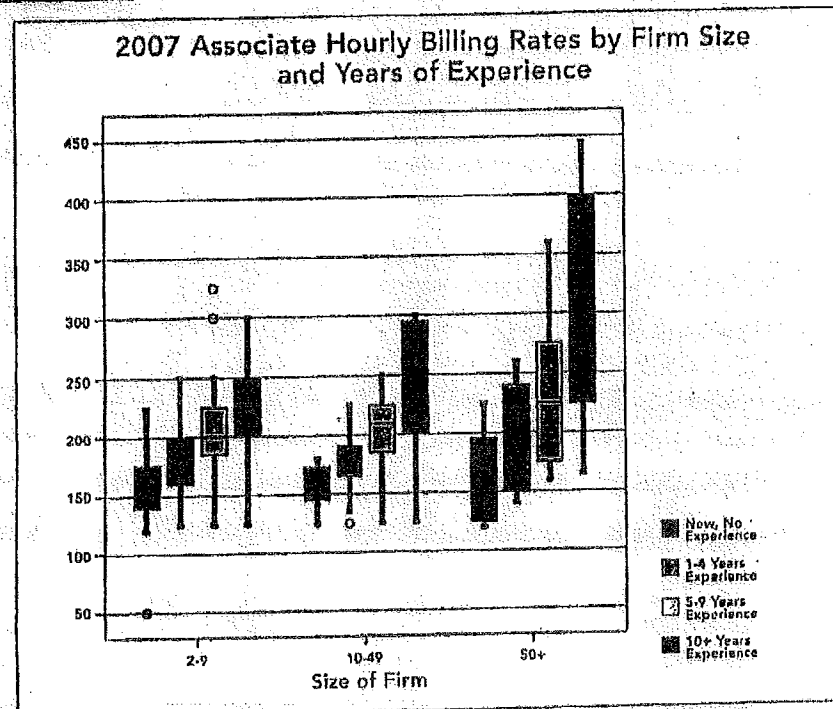
**HOURLY BILLING RATES FOR ASSOCIATES AND LEGAL ASSISTANTS**

The distribution of hourly billing rates for associates and legal assistants is summarized by years of experience in Table 26. Firm size and office location are associated with variations in associate billing rates, with tenure dominating that influence (Tables 27 and 28).

**Table 26**

2007 Hourly Billing Rates for Associates and Legal Assistants by Years of Experience						
Associates	N	Mean	Value by Percentile			
			25th	Median	75th	95th
New, No Experience	63	\$156	\$135	\$150	\$175	\$222
1-4 years	101	178	150	175	200	230
5-9 years	85	210	183	200	300	300
10+ years	63	237	200	245	300	300
<b>Legal Assistants</b>						
New, No Experience	34	\$79	\$60	\$78	\$91	\$118
1-4 years	68	93	75	90	109	150
5-9 years	76	103	85	100	125	171
10+ years	95	110	90	100	125	176

**Table 27**



Nos. 08-17094, 08-17115

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MARIA M. GONZALEZ, et al., )  
 )  
 ) Plaintiffs-Appellants, )  
 )  
 )

v. )  
 ) No. CV06-01268-PHX-ROS  
 ) No. CV06-01362-PHX-ROS

STATE OF ARIZONA, et al., )  
 )  
 ) Defendants-Appellees. )  
 )

THE INTER TRIBAL COUNCIL )  
 )  
 ) OF ARIZONA, et al. )  
 )  
 ) Plaintiffs-Appellants )  
 )  
 )

**Declaration of David J.  
Bodney in Support of ITCA  
Appellants Motion for Attorneys'  
Fees**

KEN BENNETT, in his official )  
 )  
 ) capacity as SECRETARY OF )  
 )  
 ) STATE OF ARIZONA, )  
 )  
 ) Defendants-Appellees. )  
 )

LAWYERS' COMMITTEE FOR  
CIVIL RIGHTS UNDER LAW  
Jon M. Greenbaum  
Robert A. Kengle  
Mark A. Posner  
1401 New York Avenue, Suite 400  
Washington, D.C. 20005  
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201 East Washington Street, Suite 1600  
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Fax: 602-257-5299

AARP FOUNDATION  
LITIGATION  
Daniel B. Kohrman  
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Telephone: 202-434-2064  
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OSBORN MALEDON, P.A.  
David B. Rosenbaum  
Thomas L. Hudson  
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Phoenix, Arizona 85012-2793  
Telephone: 602-640-9345  
Fax: 602-640-6051

THE INTER TRIBAL COUNCIL OF  
ARIZONA, INC.  
Joe P. Sparks  
Laurel C. Herrmann  
The Sparks Law Firm, P.C.  
7503 First Street  
Scottsdale, Arizona 85251  
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ACLU SOUTHERN REGIONAL  
OFFICE  
Laughlin McDonald  
230 Peachtree Street NW  
Suite 1440  
Atlanta, Georgia 30303  
Telephone: 404-523-2721  
Fax: 404-653-0331

I, David J. Bodney, declare that if called as a witness, I could and would testify competently that:

1. I am an attorney duly licensed to practice law in the State of Arizona and am the Managing Partner of the Phoenix office of Steptoe & Johnson, LLP (“S&J”), which is headquartered in Washington, D.C., with offices in the United States and internationally. I submit this Declaration in support of the ITCA Appellants’ application for an award of attorneys’ fees and reimbursement of expenses incurred in the appeal of this case. My firm acts as co-counsel to the ITCA Appellants in this litigation, and I serve as lead counsel of the lawyers from my firm.

2. I earned my B.A. from Yale College (Political Science) in 1976 and my J.D./M.A. (Foreign Affairs) from the University of Virginia in 1979. I was admitted to the Arizona Bar in 1979 and have practiced law in Arizona since 1979.

3. My practice areas include media and constitutional law, commercial and intellectual property litigation, American Indian law and government affairs. For the past two decades, I have devoted a substantial amount of my practice to Indian law, and have handled several election law matters. Over my career, I have argued a wide variety of appellate cases, in state and federal courts, and briefed several high-profile cases in the United States Supreme Court.

4. My current bar activities include serving as a member of the (a) Professionalism Committee of the State Bar of Arizona, (b) Governing Board of the Forum Committee on Communications Law of the American Bar Association, and (c) the editorial board of the American Bar Association's *Communications Lawyer*.

5. I serve on the Board of Visitors at the University of Arizona's James E. Rogers College of Law and on the Dean's Council at the Arizona State University College of Law, where I also serve as adjunct faculty.

6. I am a member of the national Board of Directors for co-counsel the Lawyers' Committee for Civil Rights Under Law and have led its "Election Protection" efforts in Arizona from 2004-2008. I am also a National Commissioner of the Anti-Defamation League, have served as Board Chair of its Arizona Region and am a member of its national Civil Rights Committee.

7. As the Managing Partner of S&J's Phoenix office and a member of the firm Executive Committee for much of the last 20 years, I am involved in establishing the rates we charge to our fee-paying clients. To ensure that we are charging market rates, I am also generally aware of rates charged by other firms in Phoenix.

8. As co-counsel to the ITCA Appellants, I am intimately aware of the issues involved in this case. In the U.S. District Court, I argued the NVRA issue.

The issues of this case, including the NVRA issue that ITCA Appellants have prevailed on before this Court, are complex. They are issues of national importance and largely of first impression. Indeed, the NVRA issue was of sufficient complexity and novelty that this Court granted *en banc* review after two panels had reached different outcomes on the issue.

9. Attached as Exhibit A to this Declaration is a true and correct record of the contemporaneous time charges of the S&J lawyers who worked on this case from October 8, 2008 through June 21, 2011. Exhibit A reflects the time billed by, and hourly billing rates of, my then-associate, Karen Hartman-Tellez, who was admitted to practice law in Arizona in 2001 and clerked for Chief Justice Ruth McGregor of the Arizona Supreme Court, and myself. ITCA Appellants do not seek recovery for all of the time Ms. Hartman-Tellez and I incurred in the case; we have written off \$3,574.00 in our time charges. Nor do we seek recovery for the work of two other attorneys and one legal assistant on this matter, the value of whose time comes to \$3,530.50. Nor do ITCA Appellants seek recovery for any of S&J's costs incurred. The total value of the S&J time for which ITCA Appellants seek recovery is \$83,073.50, which is reflected on Exhibit A. I believe this total amount of \$83,073.50 is fair and reasonable.<sup>1</sup>

---

<sup>1</sup> Ms. Hartman-Tellez no longer works at S&J; she currently serves as an Assistant Arizona Attorney General. Hence, to the extent some of our contemporaneous time entries were not "task billed," and I have been unable to confer personally with Ms. Hartman-Tellez, I have approximated such time entries based on my experience working with Ms. Hartman-Tellez on this case.

10. I am also personally aware of the work that has been performed by the Lawyers' Committee as co-counsel to ITCA and have worked directly with the three senior attorneys at the Lawyers' Committee Jon Greenbaum (1993 J.D.), Robert Kengle (1984 J.D.), and Mark Posner (1978 J.D.). I have also reviewed the time records and expenses of the Lawyers' Committee in connected with the post-trial appeal before the 9<sup>th</sup> Circuit panel and the 9<sup>th</sup> Circuit *en banc*. I am aware that the Lawyers' Committee is requesting \$475 an hour for Messrs. Greenbaum, Kengle and Posner, \$230 an hour for the two first-year lawyers who worked on these stages of the case, and \$135 an hour for the legal assistant. The rates requested for the time of the staff of the Lawyers' Committee are consistent with the market rates for handling complex litigation in Phoenix and certainly not above the median.

I declare under penalty of perjury, and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this May 18, 2012 in Phoenix, AZ.

s/ - David J. Bodney  
David J. Bodney

## CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of May, 2012, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed a copy of the foregoing document by First-Class Mail, postage prepaid, to the following non-CM/ECF participants:

Samuel R. Bagenstos  
U.S. Department of Justice  
Civil Rights Division  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530

Charles E. Borden  
O'Melveny & Myers LLP  
1625 Eye Street, N.W.  
Washington, DC 20006

Melvin R. Bowers Jr.  
Navajo County Attorney's Office  
P.O. Box 668  
Holbrook, AZ 86025

Kali Nneka Bracey  
Jenner & Block LLP  
1099 New York Avenue, NW  
Suite 900  
Washington, DC 20001

/s Robert A. Kengle

# Exhibit A

Date	Initials	Name / Invoice Number	Rate	Hours	Amount	Description
10/8/2008	6491	Karen Hartman	380.00	0.2	76.00	Attention to docketing deadlines for Appeal.
10/9/2008	6491	Karen Hartman	380.00	0.2	76.00	Teleconference with D. Kohrman re appeal.
10/23/2008	6491	Karen Hartman	380.00	0.2	76.00	Email communications with B. Kengle.
11/19/2008	6491	Karen Hartman	380.00	2	760.00	Review 10th Circuit decision in Santillanes and legal research re Opening Brief.
12/2/2008	6491	Karen Hartman	380.00	2.7	1026.00	Legal research re Opening Brief.
12/3/2008	6491	Karen Hartman	380.00	0.9	342.00	Legal research re Opening Brief.
12/4/2008	6491	Karen Hartman	380.00	0.9	342.00	Email communications with D. Rosenbaum, S. Greene and B. Kengle re deadline for Brief (.3); teleconference with L. McElhaney re same (.2); research file re same (.4).
12/5/2008	6491	Karen Hartman	380.00	1.9	722.00	Review file for previous appellate briefs and orders/decisions (.6); outline Opening Brief (1.1); email communications with N. Perales (.2).
12/6/2008	6491	Karen Hartman	380.00	3.2	1216.00	Review orders and opinions re poll tax and NVRA (1.6); outline Opening Brief (1.6).
12/9/2008	6491	Karen Hartman	380.00	0.5	190.00	Email communications with N. Perales and B. Kengle re 9th Circuit Briefing.
12/10/2008	6491	Karen Hartman	380.00	7.5	2850.00	Teleconference with B. Kengle and N. Perales re briefing and potential amici curiae (.5); outline Opening Brief (5.0); legal research re same (2.0).
12/10/2008	141	David J. Bodney	425.00	0.2	85.00	Review and reply to email from K. Hartman re appellate brief.
12/11/2008	6491	Karen Hartman	380.00	2.5	950.00	Outline Opening Brief (1.0); legal research re same (1.5).
12/12/2008	6491	Karen Hartman	380.00	4.8	1824.00	Outline Opening Brief (.5); legal research re same (4.3).
12/14/2008	6491	Karen Hartman	380.00	3.1	1178.00	Legal research re NVRA.
12/15/2008	6491	Karen Hartman	380.00	6.7	2546.00	Outline Opening Brief (1.7); legal research re same (5.0).

12/16/2008	6491	Karen Hartman	380.00	5.2	1976.00	Outline Opening Brief (5); legal research re same (1.0); email communications with B. Kengle re same (2); draft Opening Brief (3.5).
12/17/2008	6491	Karen Hartman	380.00	3.6	1368.00	Draft Opening Brief (2.5); legal research re same (1.1).
12/18/2008	6491	Karen Hartman	380.00	2.3	874.00	Draft Opening Brief.
12/19/2008	6491	Karen Hartman	380.00	5.9	2242.00	Teleconferences with S. Hirsch, B. Kengle and M. Posner re Opening Brief (5); draft same (5.4);
12/19/2008	141	David J. Bodney	425.00	0.2	85.00	Review and reply to email from K. Hartman.
12/20/2008	6491	Karen Hartman	380.00	5.3	2014.00	Draft Opening Brief (4.8); email communications with S. Hirsch re NVRA (1.5).
12/22/2008	6491	Karen Hartman	380.00	10.9	4142.00	Draft and edit Opening Brief.
12/23/2008	6491	Karen Hartman	380.00	0.3	114.00	Teleconference with B. Kengle.
12/24/2008	6491	Karen Hartman	380.00	0.3	114.00	Review comments on draft of Opening Brief.
12/29/2008	6491	Karen Hartman	380.00	7.2	2736.00	Revise Opening Brief.
12/30/2008	6491	Karen Hartman	380.00	10.9	4142.00	Revise Opening Brief (9.9); email communications with J. Greenbaum, B. Kengle, M. Posner, N. Bradley, D. Kohrman, D. Rosenbaum, S. Greene, J. Sparks and L. McElhaney re same (1.0).
12/31/2008	6491	Karen Hartman	380.00	4.4	1672.00	Revise Opening Brief (1.4); compile Excerpts of Record re same (3.0).
1/1/2009	6491	Karen Hartman	405.00	5.2	2106.00	Revise Opening Brief (4.2); compile Excerpts of Record re same (1.0).
1/2/2009	6491	Karen Hartman	405.00	4.3	1741.50	Revise Opening Brief.
1/2/2009	141	David J. Bodney	450.00	0.7	315.00	Review draft brief and comments.
1/3/2009	6491	Karen Hartman	405.00	5.7	2308.50	Revise Opening Brief (4.7); compile Excerpts of Record (1.0).
1/4/2009	6491	Karen Hartman	405.00	3	1215.00	Revise Opening Brief (2.5); email communications with J. Greenbaum, B. Kengle, M. Posner, N. Bradley, D. Rosenbaum, T. Hudson, S. Greene, J. Sparks.

									D. Kohrman and D. Bodney re same (.5).
1/5/2009	141	David J. Bodney	450.00	0.3	135.00				Review appellate brief and related email correspondence.
1/5/2009	6491	Karen Hartman	405.00	7.8	3159.00				Revise and finalize Opening Brief and Excerpts of Record (6.8); email communications with J. Greenbaum, B. Kengle, M. Posner, N. Bradley and T. Hudson re same (.5); attention to filing and service of same (.5).
1/7/2009	6491	Karen Hartman	405.00	1.6	648.00				Attention to re-submitting Opening Brief (.5); email communications with N. Perales and B. Kengle re same (.3); draft Certificate for Brief in Paper Format (.8).
1/8/2009	6491	Karen Hartman	405.00	0.5	202.50				Attention to service of Brief in paper format.
1/22/2009	6491	Karen Hartman	405.00	0.5	202.50				Review email communications re requests to file amicus briefs (.1); review Gonzalez Opening Brief (.4).
1/23/2009	6491	Karen Hartman	405.00	3.7	1498.50				Review Gonzalez Opening Brief and court order re same (3.2); email communications with group re requests to file amicus briefs (.5).
1/29/2009	6491	Karen Hartman	405.00	1.4	567.00				Review documents re purging voter registration lists (.7); draft email memorandum to M. Posner and B. Kengle re same (.7).
2/2/2009	6491	Karen Hartman	405.00	0.2	81.00				Review court order re filing of Gonzalez Opening Brief (.1); teleconference with J. Spector re Amicus Brief; email communications with co-counsel re same (.1).
2/2/2009	141	David J. Bodney	450.00	0.2	90.00				Review message from J. Spector (MSLF) re amicus participation (.1); review and reply to K. Hartman email re same (.1).
2/3/2009	6491	Karen Hartman	405.00	3	1215.00				Review and analyze Answering Brief.
2/5/2009	6491	Karen Hartman	405.00	1.3	526.50				Review and analyze State's Answering Brief.
2/9/2009	6491	Karen Hartman	405.00	3	1215.00				Review and Analyze State's Answering Brief (2.4); conference call with J. Greenbaum, B. Kengle,



4/13/2009	6491	Karen Hartman	405.00	0.5	202.50	Email communications with N. Perales re convictions for false presentation (.2); review file re same (.3).
4/15/2009	6491	Karen Hartman	405.00	0.4	162.00	Teleconference with N. Perales re transcripts for appeal record.
4/17/2009	6491	Karen Hartman	405.00	0.7	283.50	Teleconference with N. Perales re transcripts for appellate file (.2); review docket re same (.5).
4/24/2009	6491	Karen Hartman	405.00	0.3	121.50	Draft transcript request form (.1); review docket re Gonzalez Plaintiffs form (.2).
5/15/2009	6491	Karen Hartman	405.00	0.3	121.50	Review transcript request form (.1); email communications with N. Perales re same (.2).
5/19/2009	6491	Karen Hartman	405.00	0.5	202.50	Email communications and teleconference with N. Perales re correction to case caption (.3); review file re same (.2).
5/20/2009	6491	Karen Hartman	405.00	0.2	81.00	Review corrected case caption (.1); email communications with N. Perales re same (.1).
5/21/2009	6491	Karen Hartman	405.00	0.1	40.50	Teleconference with S. Greene re case status.
6/24/2009	6491	Karen Hartman	405.00	0.2	81.00	Review HB2627 amending ARS § 16-579.
7/24/2009	6491	Karen Hartman	405.00	0.4	162.00	Review email from M. Posner re change to A.R.S. § 16-579 (.2); teleconference with S. Greene re same (.2).
9/9/2009	141	David J. Bodney	450.00	0.4	180.00	Review and reply to email from B. Kengle re oral argument in Ninth Circuit (.2); telephone conference with J. Greenbaum re same (.2).
9/14/2009	141	David J. Bodney	450.00	0.3	135.00	Review notice and related email from Ninth Circuit (.2); draft email to J. Greenbaum re same (.1).
9/25/2009	141	David J. Bodney	450.00	0.3	135.00	Review and reply to email from J. Greenbaum re oral argument (.1); draft email to Greenbaum re requisite notices (.2).
9/27/2009	141	David J. Bodney	450.00	0.1	45.00	Review email from J. Greenbaum re filing of Acknowledgement of Hearing.

9/30/2009	141	David J. Bodney	450.00	0.2	90.00	Review and reply to email from J. Greenbaum re oral argument.
10/13/2009	141	David J. Bodney	450.00	0.2	90.00	Review and reply to email re oral argument.
10/15/2009	141	David J. Bodney	450.00	0.4	225.00	Review and reply to email from J. Greenbaum re moot court and oral argument issues.
10/16/2009	141	David J. Bodney	450.00	0.7	315.00	Review and reply to email from B. Kengle re moot court (.2); draft email re. and preparation for, mock argument (.5).
10/18/2009	141	David J. Bodney	450.00	2	900.00	Preparation for mock 9th Circuit argument with J. Greenbaum, et al., including review and analysis of 9th Circuit briefs and arguments.
10/19/2009	141	David J. Bodney	450.00	2	900.00	Preparation for and participation in mock argument for Ninth Circuit oral argument.
11/9/2010	141	David J. Bodney	475.00	0.5	237.50	Review notice of withdrawal (.1); review message from Sparks firm (.1); review and reply to email from K. Hartman (.3).
11/15/2010	141	David J. Bodney	475.00	0.2	95.00	Review Order denying Appellants' request for injunctive relief.
11/19/2010	141	David J. Bodney	475.00	0.1	47.50	Attention to filing and service of Notice of Withdrawal of K. Hartman-Tellez.
11/22/2010	141	David J. Bodney	475.00	0.1	47.50	Review order terminating K. Hartman-Tellez from case.
12/2/2010	141	David J. Bodney	475.00	0.4	190.00	Review amicus briefs and related email correspondence.
12/16/2010	141	David J. Bodney	475.00	0.2	95.00	Review and reply to email from J. Greenbaum re teleconference concerning Ninth Circuit brief.
12/17/2010	141	David J. Bodney	475.00	0.1	47.50	Review email re conference call.
12/21/2010	141	David J. Bodney	475.00	0.5	237.50	Participation in conference call with defense team (.4); review email re stipulation (.1).
1/18/2011	141	David J. Bodney	510.00	0.1	51.00	Review emails re amicus brief by League of

									Women Voters.
1/26/2011	141	David J. Bodney	510.00	0.3	153.00				Review edits to brief and email correspondence re same.
5/6/2011	141	David J. Bodney	510.00	0.1	51.00				Review State's Motion for Extension and docket entries re filing of copies of briefs.
5/18/2011	141	David J. Bodney	510.00	0.2	102.00				Review Order (.1); electronic correspondence with J. Greenbaum re oral argument (.1).
5/26/2011	141	David J. Bodney	510.00	0.3	153.00				Electronic correspondence with J. Greenbaum re issues for oral argument (.2); review emails re same (.1).
6/3/2011	141	David J. Bodney	510.00	0.5	255.00				Review filings re U.S. and other amicus briefs.
6/7/2011	141	David J. Bodney	510.00	0.1	51.00				Review electronic correspondence from T. Hudson and J. Greenbaum
6/9/2011	141	David J. Bodney	510.00	0.2	102.00				Review 9th Circuit filings and related emails re division of time at oral argument.
6/13/2011	141	David J. Bodney	510.00	0.2	102.00				Electronic correspondence with co-counsel re proposed Reply re Apportionment of Oral Argument Time Among Appellants.
6/14/2011	141	David J. Bodney	510.00	0.2	102.00				Review Notice of Appearance and Motion for Leave to File Proposed Amicus Brief of P. Barnett (.1); review email from J. Greenbaum re Order re Oral Argument (.1).
6/15/2011	141	David J. Bodney	510.00	0.5	255.00				Review State's Response Brief (.4); review J. Greenbaum email re appellate panel (.1).
6/16/2011	141	David J. Bodney	510.00	1	510.00				Preparation for and participation in mock oral argument with J. Greenbaum, et al.
		GRAND TOTAL:	WORK:	207.8	83073.50				

Name	Interviews & Conferences		Obtaining & Reviewing Records		Legal Research		Drafting Briefs		Preparing for & Attending Oral Argument		Other: Locating, organizing, and printing documents		Total
Karen Hartman-Tellez	14.2		0.8		35.8		142.3		0		0		193
David Bodney	2.9		1.9		0		1.7		8.2		0		14.7