

Nos. 08-17094, 08-17115

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

JESUS M. GONZALEZ; BERNIE
ABEYTIA; DEBBIE LOPEZ;
SOUTHWEST VOTER
REGISTRATION EDUCATION
PROJECT; VALLE DEL SOL;
FRIENDLY HOUSE; CHICANOS POR
LA CAUSA, INC.; PROJECT VOTE;
and ARIZONA HISPANIC
COMMUNITY FORUM,

Plaintiffs-Appellants,

and

INTER TRIBAL COUNCIL OF
ARIZONA, INC.; LEAGUE OF
WOMEN VOTERS OF ARIZONA;
HOPI TRIBE; ARIZONA ADVOCACY
NETWORK; LEAGUE OF UNITED
LATIN AMERICAN CITIZENS; and
STEVE M. GALLARDO,

Plaintiffs-Appellants,

v.

STATE OF ARIZONA; KEN
BENNETT, in his official capacity as
Secretary of State of Arizona; SHELLY
BAKER, La Paz County Recorder;
BERTA MANUZ, Greenlee County
Recorder; CANDACE OWENS,
Coconino County Recorder; LYNN

On appeal from the United States
District Court for the District of
Arizona

No. CV-06-01268-PHX-ROS
No. CV-06-01362-PHX-ROS

**UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE
ANSWERING BRIEF BY
DEFENDANTS-APPELLEES
STATE OF ARIZONA AND
ARIZONA SECRETARY OF
STATE**

CONSTABILE, Yavapai County
Election Director; KELLY DASTRUP,
Navajo County Election Director;
LAURA DEAN-LYTLE, Pinal County
Recorder; JUDY DICKERSON, Graham
County Election Director; DONNA
HALE, La Paz County Election Director;
SUSAN HIGHTOWER MARLAR,
Yuma County Recorder; GILBERTO
HOYOS, Pinal County Election Director;
LAURETTE JUSTMAN, Navajo County
Recorder; PATTY HANSEN, Coconino
County Election Director; CHRISTINE
RHODES, Cochise County Recorder;
LINDA HAUGHT ORTEGA, Gila
County Recorder; DIXIE MUNDY, Gila
County Election Director; BRAD
NELSON, Pima County Election
Director; KAREN OSBORNE, Maricopa
County Election Director; YVONNE
PEARSON, Greenlee County Election
Director; PENNY PEW, Apache County
Election Director; HELEN PURCELL,
Maricopa County Recorder; F. ANN
RODRIGUEZ, Pima County Recorder,

Defendants-Appellees.

Pursuant to Ninth Cir. R. 31-2.2(b), Defendants-Appellees State of Arizona and the Arizona Secretary of State (“State Defendants”) respectfully move for an extension of time within which to file their answering brief in this appeal (no. 08-17094). Under the current briefing schedule, State Defendants’ answering brief is due to be filed by March 2, 2009. State Defendants seek a three-week extension to file their brief until March 23, 2009.

Counsel for State Defendants also represents the State Appellees in two other appeals currently pending in the Ninth Circuit, *Coronado, et al. v. Brewer, et al.* (no. 08-17567), and *Harvey, et al. v. Brewer, et al.* (no. 08-17253). Briefing in each of those appeals is in progress and counsel has been working diligently to complete briefing in those matters. Opening briefs were submitted in each of those appeals. Although briefing schedules were set, due to pending motions the dates for filing responsive briefs has since become uncertain. In addition, counsel filed an answering on behalf of the Arizona Secretary of State last week in *Inter Tribal Council of Arizona, Inc., et al. v. Bennett* (appeal no. 08-17115), which is consolidated with this appeal. Counsel for the State Appellees has acted diligently in preparing to respond and responding to each of those appeals.

In addition, counsel for State Defendants is in the process of litigating the matter captioned, *McComish, et al. v. Bennett, et al.* (Case no. CV 08-1550-PHX-

ROS, filed August 21, 2008, in the District of Arizona). Fact discovery, which has included and continues to include numerous depositions and written discovery, in that matter closes on February 27, 2009.

Counsel believes that, despite the exercise of diligence in complying with the current schedule and court orders in other matters, the obligations pending in the above-described matters make it necessary to obtain the requested extension in this matter. If the extension is granted, State Defendants will file their brief within the time requested. No party objects to the requested extension.

Accordingly, State Defendants respectfully request that the Court permit them until March 23, 2009, to file their answering brief in this appeal.

Respectfully submitted this 17th day of February, 2009.

Terry Goddard
Attorney General

/s/ Barbara A. Bailey
Mary O'Grady
Solicitor General
Barbara A. Bailey
Assistant Attorney General
Attorneys for Appellees State of
Arizona and the Arizona Secretary of
State

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of February, 2009, I electronically filed the foregoing 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 participants on the 17th day of February, 2009 to:

Andrew P. Thomas
Maricopa County Attorney
M. Colleen Connor
MCAO Division of County Counsel
222N. Central Ave., Suite 1100
Phoenix, AZ 85003

Terrance C. Hance
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Florence, AZ 85232

By: /s/ Elizabeth A. Stark

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On appeal from the United States
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No. CV-06-01268-PHX-ROS
No. CV-06-01362-PHX-ROS

**DECLARATION OF COUNSEL
IN SUPPORT OF UNOPPOSED
MOTION FOR EXTENSION OF
TIME TO FILE ANSWERING
BRIEF BY DEFENDANTS-
APPELLEES STATE OF
ARIZONA AND ARIZONA
SECRETARY OF STATE**

CONSTABILE, Yavapai County
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Director; PENNY PEW, Apache County
Election Director; HELEN PURCELL,
Maricopa County Recorder; F. ANN
RODRIGUEZ, Pima County Recorder,

Defendants-Appellees.

Barbara A. Bailey declares:

1. I am one of the attorneys representing the State of Arizona and Arizona Secretary of State (“State Defendants”) in this appeal. Pursuant to Ninth Circuit Rule 31-2.2(b), I make this declaration in support of State Defendants’ motion for an extension of time within which to file their answering brief.

2. Under the current briefing schedule, State Defendants’ answering brief is due on March 2, 2009. Under a previous schedule, that answering brief had been due by February 2, 2009. Appellants sought and received an eighteen-day extension to file their brief, however, which resulted in pushing back the deadline for the filing of the answering brief. Appellants’ opening brief ultimately was filed on February 2, 2009.

3. State Defendants seek a twenty-one day extension, until March 23, 2009, within which to file their answering brief. This request is the first such request by State Defendants.

4. Counsel filed an answering on behalf of the Arizona Secretary of State last week in *Inter Tribal Council of Arizona, Inc., et al. v. Bennett* (appeal no. 08-17115), which is consolidated with this appeal. Counsel did not seek any extension in that appeal.

5. Counsel for State Defendants also represents the State Appellees in two other appeals currently pending in the Ninth Circuit, *Coronado, et al. v. Brewer, et al.* (no. 08-17567), and *Harvey, et al. v. Brewer, et al.* (no. 08-17253).

6. Briefing in each of the *Coronado* and *Harvey* appeals is in progress and counsel has worked diligently to complete briefing in those matters. Opening briefs were submitted in each of those appeals. Although briefing schedules were set, due to pending motions the dates for filing responsive briefs has since become uncertain. Counsel, however, has acted diligently in preparing to respond to each of those appeals.

7. In addition, counsel for State Defendants is in the process of litigating the matter captioned, *McComish, et al. v. Bennett, et al.* (Case no. CV 08-1550-PHX-ROS, filed August 21, 2008, in the District of Arizona). Fact discovery, which has included and continues to include numerous depositions and written discovery, in that matter closes on February 27, 2009.

8. Counsel for State Defendants has acted diligently in attempting to comply with the current schedule and court orders in other matters. Obligations pending in the above-described matters, however, make it necessary to obtain the requested extension in this matter.

9. If the extension is granted, State Defendants will file their brief within the time requested.

10. No party to this appeal objects to the requested extension.

DATED this 17th day of February, 2009.

/s/ Barbara A. Bailey
Barbara A. Bailey

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of February, 2009, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

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