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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE DISTRICT OF ARIZONA

18 Maria M. Gonzalez, et al.,) No. CV-06-1268-PHX-ROS(Lead)
19) No. CV-06-1362-PCT-ROS
20 Plaintiffs,) No. CV-06-1575-PCT-ROS

20 vs.)

21) **GONZALEZ PLAINTIFFS' MOTION**
22 State of Arizona, et al.,) **FOR ENTRY OF PROTECTIVE**
23 Defendants.) **ORDER AND AGREED**
24) **STIPULATION**

25)
26) (Assigned to the
27) Honorable Roslyn O. Silver)
28)

1 I. INTRODUCTION

2 Gonzalez Plaintiffs file this Motion in order to ensure that there is a live motion
3 before the Court seeking entry of the parties' Protective Order and Stipulation of
4 Confidentiality.
5

6 In July 2006, after extensive negotiations, the parties agreed upon a Protective
7 Order and Stipulation of Confidentiality to guide their handling of voter registration
8 information that was the subject of discovery in this case. At the time, Gonzalez
9 Plaintiffs sought discovery of voter registration forms that were rejected by County
10 Recorders for failure to comply with the requirements of Proposition 200.
11

12 The Protective Order and Stipulation of Confidentiality were drafted by County
13 Defendants and revised by the plaintiffs in the case. After the Protective Order and
14 Stipulation of Confidentiality were finalized and agreed upon by all parties, County
15 Defendants filed them with the Court twice. On both occasions the filing was
16 improper.¹ Plaintiffs request that the Court enter the Protective Order, which is
17 agreed upon by the parties and provided herein.
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20 II. DISCUSSION

21 On July 10, 2006, Gonzalez Plaintiffs served their first Request for Production of
22 Documents on Maricopa County Defendants requesting "All documents related to
23 voter registration applications rejected for failure to provide sufficient proof of
24

25 ¹ County Defendants neither corrected their filing nor notified the plaintiffs in the
26 case that they did not and would not file the Stipulation and Protective Order with the
27 Court. County Defendants now claim, in response to Plaintiffs' request that the Court
28 enter the Protective Order, that as a result of their improper filing, the Court should take
no further action.

1 United States citizenship, sorted by month.” Exh. 1. *See also* Notice of Service,
2 Docket No. 100.

3 At the same time, Gonzalez Plaintiffs engaged in negotiations with County
4 Defendants regarding whether certain information would be redacted from the
5 requested voter registration forms. Maricopa County Defendants maintained that
6 they must redact information on the voter registration forms unless disclosure was
7 authorized “pursuant to court order.” *See* A.R.S. 16-168 (F).
8

9
10 In order to obtain un-redacted voter registration forms, Gonzalez Plaintiffs asked
11 Maricopa County Defendants to help prepare a protective order for signature by the
12 Court. County Defendants circulated a draft stipulation and protective order among
13 the parties later in July 2006; the parties negotiated a number of revisions and
14 County Defendants agreed to file the final stipulation and protective order with the
15 Court. Exh. 2.
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17 On July 31, 2006, County Defendants filed with the Court a draft stipulation that
18 was not the subject of the parties’ agreement. Dkt. No. 134. After Plaintiffs’
19 Counsel alerted them to the error, on August 3, 2006 County Defendants filed with
20 the Court a Motion to Strike and Replace to provide the Court with the correct
21 version of the stipulation and protective order. Dkt. No. 140. That motion was
22 denied by the Court as procedurally improper. Dkt. No. 173. Following the Court’s
23 denial of the Motion to Strike, County Defendants made no further attempt to file
24 the parties’ Stipulation and Protective Order. County Defendants also did not
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1 inform plaintiffs that they had not and would not file the agreed-upon Stipulation
2 and Protective Order.

3 On July 28, 2006, Maricopa County responded to Gonzalez Plaintiffs' Request
4 for Production by producing redacted voter registration forms. As explained in more
5 detail in their Motion for Expedited Consideration, Gonzalez Plaintiffs require
6 unredacted voter registration forms in order to demonstrate the impact of Proposition
7 200 on, among others, Latinos and naturalized citizens, and carry their burden of
8 proof in this case. *See* Dkt. No. 315.

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11 The Counties' redaction of thousands of voter registration forms prevents
12 Plaintiffs from determining, for example, whether the rejected applicant is a
13 naturalized citizen because County Defendants "blacked out" with a marker the
14 information showing state or country of birth. The redacted information regarding
15 country of birth is critical to the ability of Gonzalez Plaintiffs to prove their Equal
16 Protection Clause claim on behalf of naturalized citizens.

17
18 The parties' agreed Protective Order and Stipulation of Confidentiality, attached
19 as Exhibit 3, provides that personal information on voter registration forms will be
20 "held in the highest confidence" and that access to the information will be limited to
21 a select group of individuals including the parties, their counsel and expert witnesses
22 and the Court. Gonzalez Plaintiffs are confident that the parties' agreed Protective
23 Order and Stipulation of Confidentiality will permit disclosure of unredacted forms
24 as well as resolve any concerns regarding the privacy of voter registrants and the
25 duties of election officials under A.R.S. 16-168 (F).
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1 III. CONCLUSION

2 It has been more than a year since Gonzalez Plaintiffs made their request for rejected
3 voter information forms. During that time, Gonzalez Plaintiffs have negotiated in
4 good faith to achieve a Protective Order and Stipulation of Confidentiality that
5 would satisfy County Defendants' privacy concerns and permit production of the
6 requested documents. In light of County Defendants' failure to fulfill their promise
7 to file the parties' Protective Order and Stipulation of Confidentiality, Gonzalez
8 Plaintiffs hereby request that the Court enter the Protective Order proposed by the
9 parties.
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13 DATED this 29th day of August, 2007.

Respectfully submitted,

14 By: /s/Nina Perales
15 Nina Perales

16 Counsel for Plaintiffs
17 Gonzalez, et al.

18 CERTIFICATE OF CONFERENCE

19 I hereby certify that on August 28, 2007 I attempted to confer with Colleen
20 Connor, counsel for County Defendants, regarding this motion. Ms. Connor did not
21 respond to my attempt to contact her prior to the filing of this motion.

22 s/Nina Perales
23 Nina Perales

24 CERTIFICATE OF SERVICE

25 I hereby certify that on the 29th day of August, 2007, I caused the foregoing
26 document to be electronically transmitted to the Clerk's Office using the CM/ECF
27 System for filing and transmittal of a Notice of Electronic Filing to CM/ECF registrants.
28

1 COPY of the foregoing mailed with Notice
2 of Electronic Filing this 29th day of August, 2007 to:

3 The Honorable Roslyn O. Silver
4 United States District Court
5 Sandra Day O'Connor U.S. Courthouse, Suite 624
6 401 West Washington Street, SPC 59
7 Phoenix, AZ 85003-2158

s/Nina Perales
Nina Perales

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