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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

MARIA M. GONZALEZ, et al.,)	CV 06-1268-PHX-ROS (Lead)
)	CV 06-1362-PHX-ROS
Plaintiffs,)	CV 06-1575-PHX-ROS
)	
vs.)	(CONSOLIDATED)
)	
STATE OF ARIZONA, et al.,)	MOTION FOR APPROVAL OF
)	PROPOSED
Defendants.)	PRELIMINARY SCRIPT
)	OUTLINE

Pursuant to this Court’s Order issued from the bench on August 30, 2007, Maria M. Gonzales et. al. and the Intertribal Council of Arizona, Inc. et. al., (“Gonzalez and ITCA Plaintiffs”) hereby submit a Proposed Preliminary Script Outline, attached as Exhibit A, for this Court’s approval.¹ Plaintiffs and Defendants engaged in extensive efforts to reach a stipulation regarding this Preliminary Script, but were unable to reach agreement.

The topics addressed in the Preliminary Script may be covered in any survey or other outreach conducted with (1) voter registration applicants whose registration applications were rejected for lack of proof of United States citizenship, and (2) voters

¹ Neither the Navajo Nation nor the three counties separately represented in Case No. CV 06-1575-PHX-ROS participated in the discovery dispute heard by the Court at the August 30, 2007 hearing, which focused in large part on access to and use of voter registration records. This stipulation and related script attached hereto go beyond contacting those individuals whose voter registration applications were rejected and includes contacting those voters whose conditional provisional ballots were not counted. The three County Defendants in the Navajo Nation suit have not presented any objection or privacy concern to the Navajo Nation Plaintiffs regarding its intention to contact members of the Navajo Nation whose votes were not counted, and to conduct interviews through interpreters (or in English, where appropriate) of such voters. Therefore, Navajo Nation and Agnes Laughter are not parties to this stipulation.

1 whose conditional provisional ballots were not counted due to insufficient polling
2 place identification. Any survey or other outreach conducted with these affected
3 individuals will be conducted by the Gonzalez/ITCA parties (or a party's
4 representative), the Gonzalez/ITCA plaintiffs' counsel, or experts/consultants retained
5 by the Gonzalez/ITCA Plaintiffs.
6

7 The Preliminary Script attached as Exhibit A includes most of the topics that,
8 at this juncture, the parties believe are relevant to the remaining claims in this case.
9 By complying with this Court's request that the Preliminary Script be approved by the
10 Court and disclosed to Defendants, Plaintiffs do not waive any work product
11 immunity.
12

13 Information Relevant To ITCA Plaintiffs' Outreach Efforts

14 ITCA Plaintiffs currently contemplate conducting a survey effort of the groups
15 mentioned above. **Any survey of rejected registration applicants or of voters
16 casting ultimately uncounted conditional provisional ballots will be conducted by
17 persons employed by and supervised by ITCA Plaintiffs' experts.** ITCA Plaintiffs
18 do not presently anticipate using volunteers to contact individuals. ITCA Plaintiffs
19 are currently finalizing their retention of a public survey research firm that will
20 conduct the survey effort (the "survey research firm"). The survey research firm will
21 be asked to contact at least a statistically significant sample of the rejected registration
22 applicants and the voters whose conditional provisional ballots were not counted.
23

24 The script outline is being submitted as a *preliminary* script because it has been
25 drafted by non-expert lawyers and is likely to be refined and clarified by the survey
26 research firm, whose input and expertise regarding the survey instrument is critical.
27 Plaintiffs' Proposed Order, filed herewith, incorporates this flexibility.
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Information Relevant To Gonzalez Plaintiffs' Outreach Efforts

Gonzalez Plaintiffs currently do not contemplate hiring experts to conduct a survey of rejected registration applicants and the voters whose conditional provisional ballots were not counted. However, Gonzalez Plaintiffs and their counsel may themselves contact rejected registration applicants and the voters whose conditional provisional ballots were not counted and commit to follow the proposed Preliminary Script or any other script ordered by the Court for this purpose.

Plaintiffs' Proposed Preliminary Script, and Plaintiffs' Proposed Order, Addresses This Court's Concerns Regarding Applicants and Voters' Privacy While Maintaining Flexibility For Any Retained Expert To Modify The Script

This Court requested at the August 30, 2007 discovery dispute hearing that the parties confer and attempt to reach a stipulated script for purposes of any outreach efforts towards individuals affected by Proposition 200. During the hearing, the Court expressed concern that layperson volunteers of the Arizona Advocacy Network had been phoning individuals whose registration forms had been rejected for lack of proof of U.S. citizenship. The Court was concerned about privacy issues because non-expert laypersons had been, and would continue to be, contacting individuals from phone numbers appearing on rejected registration forms, asking about potentially private identifying information, and possibly contacting persons who might feel harassed or otherwise inconvenienced by the call.

However, as already noted, since the time of the August 30, 2007 hearing, ITCA Plaintiffs have decided to retain *an expert survey research firm* to conduct the survey effort. Because ITCA Plaintiffs believe that outreach efforts conducted by *retained experts* do not raise the same issues that concerned the Court on August 30, 2007, ITCA Plaintiffs do not believe that the *final* script (or whatever form the survey

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I hereby certify that on September 11, 2007, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of Notice of Electronic Filing to the following CM/ECF registrants:

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