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21 IN THE UNITED STATES DISTRICT COURT

22 FOR THE DISTRICT OF ARIZONA

23	MARIA M. GONZALEZ, et al.,	)	CV 06-1268-PHX-ROS (Lead)
24		)	CV 06-1362-PHX-ROS
25	Plaintiffs,	)	CV 06-1575-PHX-ROS
26	vs.	)	
27		)	<b>(CONSOLIDATED)</b>
28	STATE OF ARIZONA, et al.	)	
		)	<b>ITCA'S MOTION FOR</b>
	Defendants.	)	<b>INJUNCTION PENDING</b>
		)	<b>APPEAL</b>
		)	
		)	<b>(Expedited Consideration</b>
		)	<b>Requested)</b>

29 Plaintiffs Inter Tribal Council of Arizona, et. al. ("Plaintiffs") have filed a  
30 Notice of Appeal from the Court's September 11, 2006 order denying Plaintiffs'  
31 Motion for Preliminary Injunction. It is unlikely the Ninth Circuit will be able fully to  
32 review the merits of the appeal before the upcoming registration deadline of

1 October 9, 2006 or before the next general election scheduled for November 7, 2006  
2 (the first general election since Proposition 200's passage). Plaintiffs plan to ask the  
3 Ninth Circuit for emergency and urgent relief pursuant to Fed. R. App. 27-3 in  
4 connection with the upcoming registration deadline of October 9, 2006, and the  
5 general election scheduled for November 7, 2006.

6 Accordingly, pursuant to Fed. R. Civ. P. 62(c), Fed. R. App. 27-3(a)(4) and  
7 (b)(4), and for the reasons set forth in Plaintiffs' Motion for Injunctive Relief,  
8 Plaintiffs ask the Court to: (1) stay implementation of Proposition 200's voting  
9 identification requirement in connection with the upcoming election of November 7,  
10 2006; and (2) stay implementation of Proposition 200's registration proof of  
11 citizenship requirements immediately. Absent a stay, the harm from Proposition 200  
12 to the November 2006 general election will occur before the Ninth Circuit has had a  
13 full opportunity to evaluate the merits of the legality of Proposition 200. Thus, tens of  
14 thousands of citizens will be prevented from voting, and deprived of a fundamental  
15 right, before the Ninth Circuit has had an opportunity to determine the Proposition's  
16 constitutionality. Moreover, the preliminary evidence from the recent primary  
17 election on September 12, 2006, some of which is attached hereto,<sup>1</sup> confirms that  
18 Proposition 200 should be stayed pending the appeal so that its legality can be  
19 determined by the Ninth Circuit before the voting rights of tens of thousands of  
20 Arizonans are impacted. As the evidence already submitted to the Court shows, no

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22 <sup>1</sup> The affidavit of Candace Owens, Coconino County Recorder, is attached as  
23 Exhibit A and provides data regarding the kinds of ballots cast, and counted, during  
24 the primary election (*e.g.*, regular provisional, conditional provisional). Of the 132  
25 Coconino County voters forced to cast conditional provisional ballots because they  
26 did not have proper identification, approximately 74% of the ballots were not counted  
27 because the voters did not return with acceptable identification. More than one-half  
28 of these provisional ballots were cast on Indian Reservations, where the failure to  
return rate was even higher. Moreover, Plaintiffs have been informed that for  
Maricopa County, 446 voters cast conditional provisional ballots in the primary  
election, and 370 of these ballots (83%) were not counted because the voters did not  
return with acceptable identification.

1 harm will occur if Proposition 200's full implementation is delayed pending the  
2 appeal. A proposed Order is attached hereto.

3 DATED this 25th day of September, 2006.

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**ATTORNEYS FOR PLAINTIFFS**

1 I hereby certify that on September 25, 2006, I electronically transmitted the  
2 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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