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9
10 **IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

11
12 Maria M. Gonzalez, et al.,
13 Plaintiffs,
14 v.
15 State of Arizona, et al.,
16 Defendants.
17

No. CV06-1268 PHX ROS
No. CV06-1362 PCT JAT (Cons)
No. CV06-1575 PHX EHC (Cons)

**STATE'S MOTION TO VACATE
NOVEMBER 2, 2006 HEARING**

(Assigned to the Honorable Roslyn O.
Silver)

18
19 Yesterday, the Navajo Nation Plaintiffs filed a motion for the Court to reschedule
20 the hearing regarding their Civil Rights Act and Voting Rights Act claims originally set
21 for October 19, 2006. The Court subsequently issued an Order scheduling a
22 "supplemental preliminary injunction hearing" for November 2, 2006 (dkt. 225). The
23 State respectfully asks the Court to vacate that hearing.

24 The U.S. Supreme Court's decision in *Purcell v. Gonzalez*, Nos. 06-532 and 06-
25 533, 549 U.S. __ (2006) (per curiam), should foreclose any further litigation over the
26 voter identification requirements in Arizona before the November 7 general election. A
27 copy of the Supreme Court's decision, issued last Friday, accompanies this Response as
28 Exhibit 1.

1 In vacating the Ninth Circuit stay, the Supreme Court cautioned against further
2 disruption in connection with Proposition 200 this close to the general election: “Court
3 orders affecting elections, especially conflicting orders, can themselves result in voter
4 confusion and consequent incentive to remain away from the polls. As an election
5 draws closer, that risk will increase.” *Id.* at 4. The Court added that “our action today
6 shall of necessity allow the election to proceed without an injunction suspending the
7 voter identification rules.” *Id.* at 5.

8 In his concurrence, Justice Stevens also explained that the voting provisions of
9 Proposition 200 remain in effect for the November 7 election to “provide the courts with
10 a better record on which to judge their constitutionality Given the importance of the
11 constitutional issues, the Court wisely takes action that will enhance the likelihood that
12 they will be resolved correctly on the basis of historical facts rather than speculation.”
13 *Id.* at 5-6 (Stevens, J., concurring).

14 The Supreme Court’s decision received attention throughout Arizona, and the
15 voters now have clear guidance from the Supreme Court that the identification rules of
16 Proposition 200 will apply. Indeed, the mere fact that another hearing is scheduled
17 concerning the voter identification rules may engender confusion among voters just five
18 days before the general election. The State asks that it be vacated.

19 RESPECTFULLY SUBMITTED this 24th day of October, 2006.

20 TERRY GODDARD
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23 Mary O’Grady, Solicitor General
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26 Arizona Secretary of State

27 ORIGINAL of the foregoing filed
28 electronically this 24th day of October, 2006.

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COPY of the foregoing mailed with a Notice of
Electronic Filing this 24th day of October, 2006 to:

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

By: s/Peter A. Silverman
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