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10
11 IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

12 MARIA M. GONZALEZ; JESUS M.
13 GONZALES; BERNIE ABEYTIA;
LUCIANO VALENCIA; DEBBIE LOPEZ,
14 SOUTHWEST VOTER REGISTRATION
EDUCATION PROJECT; VALLE DEL
15 SOL; FRIENDLY HOUSE; CHICANOS
POR LA CAUSA, INC.; and ARIZONA
16 HISPANIC FORUM,

17 Plaintiffs,

18 v.

19 STATE OF ARIZONA, JAN BREWER, in
her official capacity as the Secretary of
20 State of the State of Arizona, et al.,

21 Defendants.
22

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

**COUNTY DEFENDANTS'
RESPONSE TO
SUPPLEMENTAL BRIEF OF
GONZALEZ PLAINTIFFS**

(Assigned to the Honorable
Roslyn O. Silver)

1 Defendants Maricopa County Recorder Helen Purcell and Maricopa
2 County Elections Director Karen Osborne; Apache County Recorder LeNora
3 Johnson and Apache County Elections Director Penny L. Pew; Cochise County
4 Recorder Christine Rhodes and Cochise County Elections Director Thomas
5 Schelling; Gila County Recorder Linda Haught Ortega and Gila County Elections
6 Director Dixie Mundy; Graham County Recorder Wendy John and Graham
7 County Elections Director Judy Dickerson; Greenlee County Recorder Berta
8 Manuz and Greenlee County Elections Director Yvonne Pearson; La Paz
9 County Recorder Shelly Baker and La Paz County Elections Director Donna
10 Hale; Mohave County Recorder Joan McCall and Mohave County Elections
11 Director Allen Tempert; Navajo County Recorder Laurette Justman and Navajo
12 County Elections Director Kelly Dastrup; Pima County Recorder F. Ann
13 Rodriguez and Pima County Elections Director Brad R. Nelson; Pinal County
14 Recorder Laura Dean-Lytle and Pinal County Elections Director Gilberto Hoyos;
15 Santa Cruz County Recorder Suzie Sainz and Santa Cruz County Elections
16 Director Melinda Meek; Yavapai County Recorder Ana Wayman-Trujillo and
17 Yavapai County Elections Director Lynn A. Constabile; and Yuma County
18 Recorder Susan Hightower Marler and Yuma County Elections Director Patti
19 Madrill (collectively "County Defendants"), by and through undersigned counsel,
20 hereby respond to the *Supplemental Brief of Gonzalez Plaintiffs in Support of*
21 *their Motion for Preliminary Injunction* filed September 18, 2006.

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1 certificate as proof of citizenship.¹

2 Moreover, the Secretary of State's Procedure Manual includes a section
3 called "Uniform Correspondence" that election officials shall use when notifying
4 registrants of the proof of citizenship requirement for voter registration. Both the
5 initial and follow-up letters to potential registrants provide a list of the items that
6 will provide satisfactory evidence of United States citizenship. For naturalized
7 citizens, the letters state that satisfactory evidence of citizenship includes: "A
8 legible photocopy of your United States naturalization documents. . . ." Exhibit 1,
9 Secretary of State's Procedure Manual at 234 and 236.

10 **II. Number of Certificate of Naturalization**

11 Next, the Gonzalez Plaintiffs argue that Proposition 200 imposes a proof
12 of citizenship requirement on naturalized citizens that is incapable of being
13 fulfilled because the naturalization number cannot be verified. This argument
14 completely ignores the fact that two different sets of numbers are included on
15 the naturalization certificate, only one of which may be used to verify citizenship.
16 Understandably, some registrants may provide the incorrect set of numbers on
17 their voter registration form. If an invalid number is given, then county election
18 officials take all reasonable steps necessary to obtain the correct naturalization

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¹ See Deposition of F. Ann Rodriguez, Pima County Recorder, at 62:23-25 through
63:1-23; Deposition of Karen Osborne, Maricopa County Elections Director, at 37:2
through 40:23; Deposition of Laurette Justman, Navajo County Recorder, at 22:12-25.

1 number by contacting the person by telephone and sending correspondence.²

2 As this Court can see from the attached copy of a naturalization
3 certificate, there are two different series of numbers in the upper right hand
4 corner of a certificate naturalization. The first set of numbers is preceded only
5 the abbreviation for the word number, "No." The second set of numbers is
6 identified as the "INS Registration No." and begins with the letter A. Exhibit 2,
7 Redacted Copy of Certificate of Naturalization. To verify a registrant's
8 citizenship with the Department of Homeland Security, election officials must
9 have the INS Registration Number, which is also referred to as the Alien
10 Registration Number.³

11 Rather than taking the rigid approach that arbitrarily designates only one
12 of the two sets of numbers as the "number of the certificate of naturalization,"
13 the county election officials interpret the statute to mean that only the set of
14 numbers that actually verifies the registrant's citizenship is required. "Statutes
15 shall be liberally construed to effect their objects and to promote justice." A.R.S.
16 § 1-221(B). Consequently, the county recorders only require the registrant
17 provide the INS Registration Number on the certificate, which will prove his or
18 her citizenship, and impose no additional requirements on naturalized citizens.

19 ² Exhibit 301, Secretary of State's Procedure Manual at 45. Once the county recorder
20 obtains the "A" number from the registrant and the number is validated, the recorder
21 may use the date the original voter registration form was signed as the registration
22 date. If the county recorder is unable to obtain the correct naturalization number after
120 days, the county recorder will then notify the registrant that the form has been
rejected and the reason along with a new voter registration form. *Id.*

³ Rodriguez Deposition at 58:8 - 59:23; Osborne Deposition at 32:9 -34:20.

1 **CONCLUSION**

2 The county recorders will accept copies of naturalization certificates as a
3 valid presentation under A.R.S. §16-166(F)(4) and do their best to inform
4 naturalized citizens of which naturalization certification number to submit should
5 they choose not to present their naturalization certificate. In addition, county
6 recorders diligently take the necessary steps to assist each registrant in
7 correcting their applications, should he or she mistakenly submit the incorrect
8 number. These steps by county officials do not single out naturalized citizens to
9 subject them to a more onerous process than other registrants. Rather, these
10 are the steps that our county officials would take to assist any citizen in
11 remedying their application so that everyone who is eligible may properly
12 register to vote.

13 Finally, it should be noted that presentation of naturalization documents or
14 submission of the number of one's certificate of naturalization is only one of
15 many ways that naturalized citizens can offer proof of citizenship. Avenues such
16 as submission of an Arizona Driver License or non-operating identification card
17 number, passport pages, or tribal identification are not closed off to naturalized
18 citizens, should they choose to use them. Far from a discriminatory regulation,
19 A.R.S § 16-166 (F) imposes the same requirement on every individual wishing
20 to vote – the requirement that a registrant present satisfactory evidence of U.S.
21 citizenship.

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DATED this 25th day of September 2006.

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transmitted via the U.S. District Court's
2 Electronic Case Filing System
this 25th day of September 2006 and to:

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12 Copy of the foregoing mailed
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13 The Honorable Roslyn O. Silver
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