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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF ARIZONA**

15 MARIA M. GONZALEZ, JESUS M.
16 GONZALEZ, BERNIE ABEYTIA,
17 LUCIANO VALENCIA, DEBBIE LOPEZ,
18 SOUTHWEST VOTER REGISTRATION
19 EDUCATION PROJECT, VALLE DEL
20 SOL, FRIENDLY HOUSE, CHICANOS
21 POR LA CAUSA, INC. and ARIZONA
22 HISPANIC COMMUNITY FORUM,

23 Plaintiffs,

24 VS.

25 STATE OF ARIZONA, JAN BREWER,
26 in her official capacity as Secretary of

27 State of the state of Arizona;
28 LeNORA JOHNSON, Apache County

Recorder, CHRISTINE RHODES, Cochise
County, Recorder, CANDANCE OWENS,
Coconino County Recorder, LINDA
HAUGHT ORTEGA, Gila County
Recorder, WENDY JOHN, Graham
County Recorder, BERTA MANUZ,
Greenlee County Recorder, SHELLY
BAKER, La Paz County Recorder,
HELEN PURCELL, Maricopa
County Recorder, JOAN McCall, Mohave
County Recorder, LAURETTE JUSTMAN,
Navajo County Recorder, F. ANN
RODRIGUEZ, Pima County Recorder,
LAURA DEAN-LYTLE, Pinal County
Recorder, SUZIE SAINZ, Santa Cruz
County Recorder, ANN WAYMAN-
TRUJILLO, Yavapai County Recorder,
SUSAN HIGHTOWER MARLER, Yuma

Case No. CV-06-1268-PHX-ROS

**CERTIFICATION OF NINA
PERALES IN SUPPORT OF
PLAINTIFFS' EX PARTE
APPLICATION FOR A
TEMPORARY
RESTRAINING ORDER AND
ALTERNATIVE APPLICATION
FOR
A TEMPORARY RESTRAINING
ORDER**

1 County Recorder, in their official
2 capacities as County Recorders of the State
3 of Arizona; PENNY L. PEW, Apache
4 County Election Director, THOMAS
5 SCHELLING, Cochise County Election
6 Director, PATTY HANSEN, Coconino
7 County Election Director, DIXIE
8 MUNDY, Gila County Election Director,
9 JUDY DICKERSON, Graham County
10 Election Director, YVONNE PEARSON,
11 Greenlee County Election Director,
12 DONNA J. HALE, La Paz County Election
13 Director, KAREN OSBORNE, Maricopa
14 County Election Director, ALLEN
15 TEMPERT, Mohave County Election
16 Director, KELLY DASTRUP, Navajo
17 County Election Director, BRAD R.
18 NELSON, Pima County Election Director,
19 GILBERTO HOYOS, Pinal County
20 Election Director, MELINDA MEEK,
21 Santa Cruz County Election Director,
22 LYNN A. CONSTABILE, Yavapai
23 County Election Director, PATTI
24 MADRILL, Yuma County
25 Election Director, in their official
26 capacities as County Election Directors
27 of the State of Arizona.

15 Defendants.

16 I, Nina Perales, certify the following:

- 17 1. I am counsel for Plaintiffs in this case and make this certification in support of
18 Plaintiffs' Ex Parte Application for Temporary Restraining Order, filed May 9, 2006
19 and Plaintiffs' Alternative Application for Temporary Restraining Order, filed May
20 16, 2006. Fed. R. Civ. P. 65 (b) (2) requires counsel to certify to the Court in writing
21 the efforts that have been made to give notice of an ex parte application and the
22 reasons supporting the claim that notice should not be required.
- 23 2. Plaintiffs filed their Ex Parte Application for Temporary Restraining Order and
24 Order to Show Cause and Memorandum in Support ("Application for a Temporary
25 Restraining Order") on May 9, 2006.
- 26 3. Plaintiffs have attempted to notify all Defendants of their May 9, 2006 Application
27

1 for a Temporary Restraining Order. On May 9, 2006, Plaintiffs sent, by certified
2 U.S. Postal Service Priority Mail, their Application for a Temporary Restraining
3 Order, as well as all of the other documents filed by Plaintiffs that day, to all
4 Defendants at the addresses of the County Recorders. To date, the U.S. Postal
5 Service has confirmed receipt by all Defendants except those from the following
6 counties: Yavapai, Santa Cruz, Coconino and Maricopa.

7 4. On May 10 and May 12, 2006, Plaintiffs sent courtesy copies of the same documents
8 by electronic mail to counsel for the State of Arizona and Secretary of State Brewer
9 (“State Defendants”). Plaintiffs also communicated by telephone with Mr. Peter
10 Silverman, counsel for State Defendants, on May 11, 2006 and informed him of
11 Plaintiffs’ intent to request a hearing on May 12, 2006 on the Application for a
12 Temporary Restraining Order. On May 12, 2006, counsel for State Defendants and
13 Maricopa County Defendants appeared at the status hearing held by the Court in this
14 case.

15 5. On May 15, 2006, Plaintiffs sent courtesy copies by electronic mail of the
16 Application for a Temporary Restraining Order and other documents filed on May
17 9, 2006 to all Defendant County Recorders and all Defendant County Election
18 Directors.

19 6. On May 16, 2006, Plaintiffs personally served the summonses issued by the Clerk
20 of the Court and the papers filed on May 9, 2006 on counsel for the State of Arizona,
21 Secretary of State Brewer and the Maricopa County Recorder and Maricopa County
22 Elections Director.

23 7. Also on May 16, 2006, Plaintiffs sent an electronic message to all Defendants in the
24 case regarding the Court’s status hearing set for May 17, 2006; Plaintiffs also sent
25 electronic notice to all Defendants of Plaintiffs’ Alternative Application for a
26 Temporary Restraining Order against State Defendants.

- 1 8. Plaintiffs' Application for a Temporary Restraining Order seeks immediate relief
2 with respect to Defendants' failure to use and accept the federal mail voter
3 registration form ("federal voter application") pursuant to the National Voter
4 Registration Act.
- 5 9. Since the implementation of the voter registration provisions of Proposition 200,
6 Defendant Brewer has instructed Arizona County Recorders to refuse any voter
7 registration application that does not also provide proof of citizenship required by
8 Proposition 200, including properly completed federal voter applications. *See*
9 Exhibit A-5 to Plaintiffs' Memorandum of Points and Authorities in Support of
10 Plaintiffs' Application for Temporary Restraining Order.
- 11 10. On March 6, 2006 the United States Election Assistance Commission wrote to
12 Defendant Brewer informing her that "the policies [she] proposed would effectively
13 result in a refusal to accept and use the Federal Registration Form in violation of
14 Federal law (42 U.S.C. §1973gg-4(a))." *See* Exhibit A-6 to Plaintiffs' Memorandum
15 of Points and Authorities in Support of Plaintiffs' Application for Temporary
16 Restraining Order.
- 17 11. On March 13, 2006, Defendant Brewer responded by letter to the Election
18 Assistance Commission, charging that the Commission's letter "provides
19 questionable legal support for its conclusion. After consulting with the Arizona
20 Attorney General, I will instruct Arizona's county recorders to continue to
21 administer and enforce the requirement that all voters provide evidence of registering
22 to vote..." *See* Exhibit A-7 to Plaintiffs' Memorandum of Points and Authorities in
23 Support of Plaintiffs' Application for Temporary Restraining Order.
- 24 12. On April 20, 2006, Defendant Brewer again directed the County Recorders to refuse
25 any voter registration application that does not also provide documentary proof of
26 citizenship required by Proposition 200. *See* Exhibit A-5 to Plaintiffs' Memorandum
27

1 of Points and Authorities in Support of Plaintiffs' Application for Temporary
2 Restraining Order.

3 13. State Defendants' directives to County Defendants, that they refuse to register voters
4 who use the federal voter application, has caused ongoing and irreparable harm to
5 those voter registration applicants who properly submitted the form and the
6 directives are in clear violation of federal law. The situation is urgent; Plaintiff
7 Luciano Valencia and other voter applicants have been improperly excluded from
8 the voter rolls, have suffered a denial of their right to be registered to vote and
9 continue to suffer this deprivation with each passing day. In addition, Plaintiff
10 organizations that conduct voter registration in order to fulfill their organizational
11 goals are irreparably harmed by their inability to register voters with the federal
12 voter application.

13 14. Any qualified individual in the State of Arizona who seeks to register but is
14 informed by Defendants that the federal voter application is insufficient without
15 proof of citizenship, or is rejected after completing the federal voter application, may
16 not return another day to attempt to register again. For these reasons, Defendants
17 must be immediately enjoined from failing to use and accept the federal voter
18 application as required by the National Voter Registration Act.

19 15. Because of these exigent circumstances, Plaintiffs sought relief from Defendants'
20 actions by filing an Ex Parte Application for a Temporary Restraining Order. In the
21 event that the Court declines to grant Plaintiffs' Ex Parte Application against all
22 Defendants, Plaintiffs filed their Alternative Application for a Temporary
23 Restraining Order which is directed only at the State Defendants. The facts
24 surrounding State Defendants' policy of rejecting the federal voter application and
25 Defendant Brewer's directives to County Recorders that they must reject the federal
26 voter application are not in dispute and do not require an evidentiary hearing.

1 Because Plaintiffs have made numerous attempts to inform Defendants of their
2 Application, and because Plaintiffs and others suffer and continue to suffer
3 irreparable harm as a result of Defendants' actions, notice of the Application should
4 not be required.

5
6 Dated: May 16, 2006

_____/s/
Nina Perales

7
8 **CERTIFICATE OF SERVICE**

9
10 **U** I hereby certify that on May 16, 2006, I electronically transmitted the attached
11 document to the Clerk's Office using the CM/ECF System for filing and transmitted
12 of a Notice of Electronic Filing to the following CM/ECF registrants:

13 **U** I hereby certify that on May 16, 2006, I served the attached document by U.S.
14 Certified Mail, Return Receipt Requested on the following, who are not registered
15 participants of the CM/ECF System:

15 Peter Silverman
16 Assistant Attorney General
17 1275 W. Washington
18 Phoenix, AZ 85007

sgruhn@co.cochise.az.us

Thomas Schelling
Cochise Elections Director
100 Clawson Ave
Third Floor
Bisbee, AZ 85603
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18 LeNora Johnson
19 Apache County Recorder
20 Apache County Annex Building, First Floor
21 75 W. Cleveland Street
22 St. Johns, AZ 85936
23 recorder@co.apache.az.us

Candace D. Owens
Coconino County Recorder
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21 Penny L. Pew
22 Apache County Elections Director
23 75 W. Cleveland Street
24 St. Johns, AZ 85936
25 ppew@co.apache.az.us

Patty Hansen
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Coconino County Courthouse
110 E. Cherry Avenue
Flagstaff, AZ 86001

25 Christine Rhodes
26 Cochise County Recorder
27 1415 W Melody Lane Bldg B
28 Bisbee, AZ 85603

1 phansen@coconino.az.gov

2 Linda Haught Ortega
3 Gila County Recorder
4 1400 East Ash Street
5 Globe, AZ 85501
6 lortega@co.gila.az.us

7 Dixie Mundy
8 Gila County Elections Director
9 1400 East Ash Street
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12 Wendy John
13 Graham County Recorder
14 921 Thatcher Blvd
15 Safford, AZ 85546
16 wjohn@graham.az.gov
17 Judy Dickerson
18 Graham County Elections Director
19 921 Thatcher Blvd
20 Safford, AZ 85546
21 jdickerson@graham.az.gov

22 Berta Manuz
23 Greenlee County Recorder
24 Greenlee City Courthouse
25 253 Fifth Street
26 Clifton, AZ 85533
27 bmanuz@co.greenlee.az.us

28 Yvonne Pearson
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Allen Tempert
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Navajo County Election Director
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1 Brad R. Nelson
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3 bnelson@exchange.co.pima.az.us

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4 Laura Dean-Lytle
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5 31 N. Pinal Street, Bldg. E
6 Florence, AZ 85232
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7 Gilberto Hoyos
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8 383 N. Main St.
9 Florence, AZ 85232
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_____/s/
Nina Perales

10 Suzie Sainz
11 Santa Cruz County Recorder
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12 2150 N. Congress Ave.
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13 ssainz@co.santa-cruz.az.us

14 Melinda Meek
15 Santa Cruz Elections Director
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18 Ann Wayman-Trujillo
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19 1015 Fair Street
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21 Lynn A. Constabile
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24 Susan Hightower Marler
25 Yuma County Recorder
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