

1 Nina Perales, TX SBN: 24005046
2 MEXICAN AMERICAN LEGAL
3 DEFENSE AND EDUCATIONAL FUND
4 110 Broadway, Suite 300
5 San Antonio, TX 78205
6 Ph: (210) 224-5476

7 Daniel R. Ortega, Jr., SBN: 005015
8 ROUSH, MCCRACKEN, GUERRERO,
9 MILLER & ORTEGA
10 650 North Third Avenue
11 Phoenix, Arizona 85003
12 Ph: (602) 253-3554

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-LYTTLE, Pinal County
Recorder, SUZIE SAINZ, Santa Cruz
County Recorder, ANN WAYMAN-
TRUJILLO, Yavapai County Recorder,
SUSAN HIGHTOWER MARLER, Yuma
County Recorder, in their official
capacities as County Recorders of the State

Case No.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF
[Civil Rights]

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

26 Defendants.

27 **PRELIMINARY STATEMENT**

- 28 1. This action challenges the voter registration and identification provisions of Proposition 200, an initiative measure adopted by Arizona voters on November 2, 2004, and it seeks declaratory and injunctive relief to halt their implementation and enforcement.
- 29 2. Plaintiffs have no plain, speedy, or adequate remedy at law other than the relief requested in this complaint. Unless enjoined by this Court, Arizona's voter registration and identification requirements will continue to impermissibly burden voting and voter registration across the state.

30 **JURISDICTION AND VENUE**

- 31 3. Jurisdiction is based upon 28 U.S.C. 1343a(3) & (4) and upon 28 U.S.C. 1331 for causes of action arising from 42 U.S.C. 1971 and 1973, 42 U.S.C. 1973gg-4, and 42

1 U.S.C. 2000d. Jurisdiction for Plaintiffs' claim for declaratory relief is based upon 28
2 U.S.C. 2201 and 2202. Jurisdiction for Plaintiffs' constitutional and federal statutory
3 claims is also based upon 42 U.S.C. 1983. Jurisdiction for Plaintiffs' claim for
4 attorneys fees is based on 42 U.S.C. 1973l(e) and 1988. Venue is proper in this Court
5 under 28 U.S.C. 1391(b).

6 **REQUEST FOR THREE-JUDGE PANEL**

- 7 4. Plaintiffs request that their Section 5 enforcement claims be heard and determined by
8 a court of three judges in accordance with 42 U.S.C. 1973c and the provisions of 28
9 U.S.C. 2284.

10 **PARTIES**

- 11 5. Plaintiff MARIA GONZALEZ is a resident of Yuma County, Arizona. Ms. Gonzalez
12 is a U.S. citizen and qualified voter registration applicant but was denied voter
13 registration by the Yuma County Recorder for failure to provide the documentary
14 proof of U.S. citizenship required by Proposition 200. Plaintiff MARIA GONZALEZ
15 is Latina.
- 16 6. Plaintiff JESUS M. GONZALEZ is a resident of Yuma County, Arizona. Mr. Gonzalez
17 is a U.S. citizen and qualified voter registration applicant but was denied voter
18 registration by the Yuma County Recorder for failure to provide the documentary
19 proof of U.S. citizenship required by Proposition 200. Plaintiff JESUS M.
20 GONZALEZ is Latino.
- 21 7. Plaintiff BERNIE ABEYTIA is a resident and registered voter of Maricopa County,
22 Arizona. Mr. ABEYTIA is a Vietnam veteran and the State Commander of the American
23 GI Forum of Arizona, a not-for-profit organization dedicated to assisting veterans.
24 Although Mr. ABEYTIA is a qualified voter, he cannot vote in person at the polls
25 because he lacks the identification required by Proposition 200. Mr. ABEYTIA would
26 have to pay a fee in order to acquire the identification required by Proposition 200.

1 Plaintiff BERNIE ABEYTIA is Latino.

2 8. Plaintiff LUCIANO VALENCIA is a resident of Pima County, Arizona. Mr. Valencia
3 is a U.S. citizen and a qualified voter registration applicant but was denied voter
4 registration by the Pima County Recorder because, after completing a federal mail
5 voter registration application, he did not provide the additional proof of U.S.
6 citizenship required by Proposition 200. Plaintiff LUCIANO VALENCIA is Latino.

7 9. Plaintiff DEBBIE LOPEZ is a resident and registered voter of Maricopa County.
8 Plaintiff DEBBIE LOPEZ formerly worked as the Arizona State Director of a national
9 non-profit whose mission was to empower Latino citizens in the political process and
10 whose activities focused on voter registration and turnout. Plaintiff DEBBIE LOPEZ
11 also volunteers to register voters and attempted to register voters in a community-
12 based voter registration drive in Maricopa County as recently as April 10, 2006.
13 Plaintiff DEBBIE LOPEZ is Latina and a member of Plaintiff ARIZONA HISPANIC
14 COMMUNITY FORUM.

15 10. Plaintiff SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT (SVREP)
16 is a non-profit and non-partisan organization committed to improving the participation
17 of Latino and other minority communities across the United States in the democratic
18 process, through voter registration, voter education and voter participation activities.
19 Since its founding in 1974, SVREP has conducted more than 2,200 voter registration
20 campaigns in 15 states, including Arizona. SVREP conducts its voter registration
21 activities at community-based sites such as school campuses, malls and fairs. Because
22 Proposition 200 has limited the number of persons that SVREP can register to vote
23 and impaired the ability of SVREP to conduct voter registration and turnout efforts,
24 SVREP has been injured by Proposition 200.

25 11. Plaintiff VALLE DEL SOL is a non-profit and non-partisan organization founded in
26 1960. Valle del Sol has grown to be one of Arizona's largest non-profit, community-

1 based organizations helping men, women, children, families, and the elderly each year
2 through social services and leadership development programs. The mission of VALLE
3 DEL SOL is to inspire positive change by investing in human services, strengthening
4 self-sufficiency for families and building the next generation of Latino leaders. In
5 order to fulfill its organizational goals, VALLE DEL SOL has conducted voter
6 registration activities in the past and plans to conduct further voter registration
7 activities in the future. Because Proposition 200 has limited the number of persons
8 that VALLE DEL SOL can register to vote and impaired the ability of VALLE DEL
9 SOL to conduct voter registration efforts, VALLE DEL SOL has been injured by
10 Proposition 200.

11 12. Plaintiff FRIENDLY HOUSE is a social service agency that provides comprehensive
12 family services to over 40,000 families, youth and children a year. Established in
13 1920, FRIENDLY HOUSE was part of a new national settlement house project of the
14 federal government to assist both new immigrants to the United States and the poor.
15 Founded by the Phoenix Americanization Committee, the goal was to teach English and
16 citizenship to foreign-born clients. Today, in addition to offering services focused on
17 youth education, employment and training, social services and adult education,
18 FRIENDLY HOUSE provides low cost, on-site immigration services, including
19 citizenship applications, to the immigrant community in greater Maricopa County and
20 also provides free outreach information through workshops and immigration
21 presentations to various community groups within the targeted areas. Among the
22 organizational goals of FRIENDLY HOUSE is to promote and ensure the ability of
23 immigrants to naturalize and to participate as U.S. citizens in civic life. FRIENDLY
24 HOUSE also fulfills its organizational mission by conducting community-based voter
25 registration. Because Proposition 200 has limited the number of persons that
26 FRIENDLY HOUSE can register to vote and impaired the ability of FRIENDLY
27

1 HOUSE to conduct voter registration efforts, FRIENDLY HOUSE has been injured by
2 Proposition 200.

3 13. Plaintiff CHICANOS POR LA CAUSA, INC. (CPLC) is a statewide community
4 development corporation (CDC), committed to building stronger, healthier
5 communities as a leading advocate, coalition builder and direct service provider.
6 CPLC promotes positive change and self-sufficiency to enhance the quality of life for
7 the benefit of those it serves. In order to fulfill its organizational goals, CPLC
8 conducts voter registration drives. Because Proposition 200 has limited the number
9 of persons that CPLC can register to vote and impaired the ability of CPLC to conduct
10 voter registration efforts, CPLC has been injured by Proposition 200.

11 14. Plaintiff ARIZONA HISPANIC COMMUNITY FORUM (AHCF) is a membership
12 advocacy organization that collaborates with other organizations on civil and human
13 rights issues. The mission of the AHCF is to empower Hispanic communities: to work
14 towards active participation with policy-making bodies at all levels of the public and
15 private sectors; to become involved in local state and national issues impacting the
16 Hispanic community; to educate, promote and preserve Hispanic history, language,
17 cultures, customs, and contributions; to increase opportunities and improve the quality
18 of life for Hispanics; to defend, preserve and protect rights of Hispanics under the law;
19 and to educate and ensure that the public and private sector provide equal access and
20 fair treatment for Hispanics. In order to fulfill its organizational goals, AHCF
21 conducts voter registration. Because Proposition 200 has limited the number of
22 persons that AHCF can register to vote and impaired the ability of AHCF to conduct
23 voter registration and turnout efforts, AHCF has been injured by Proposition 200.

24 15. Defendant STATE OF ARIZONA is a state of the United States of America. Defendant
25 STATE OF ARIZONA is subject to the requirements of federal law, including the
26 National Voter Registration Act of 1993 and Section 5 of the Voting Rights Act of
27

1 1965.

2 16. Defendant JAN BREWER is sued in her official capacity as Arizona Secretary of State.
3 Defendant BREWER is the chief election officer of Defendant STATE OF ARIZONA.
4 In that capacity, she is responsible for implementation of the provisions of
5 Proposition 200 relating to voting.

6 17. Defendant HELEN PURCELL is the Maricopa County Recorder. She is sued in her
7 official capacity. As the County Recorder, Ms. PURCELL's responsibilities include
8 voter registration for the county as well as the conduct of elections in the county.

9 18. Defendant KAREN OSBORNE is the Maricopa County Director of Elections. She is
10 sued in her official capacity. As Director of Elections, Ms. OSBORNE is responsible
11 for administering, preparing, conducting and tallying federal, state and county elections
12 in the county.

13 19. Defendant LeNORA JOHNSON is the Apache County Recorder. She is sued in her
14 official capacity. As the County Recorder, Ms. JOHNSON's responsibilities include
15 voter registration for the county as well as the conduct of elections in the county.

16 20. Defendant PENNY L. PEW is the Apache County Director of Elections. She is sued
17 in her official capacity. As Director of Elections, Ms. PEW is responsible for
18 administering, preparing, conducting and tallying federal, state and county elections
19 in the county.

20 21. Defendant CHRISTINE RHODES is the Cochise County Recorder. She is sued in her
21 official capacity. As the County Recorder, Ms. RHODES's responsibilities include
22 voter registration for the county as well as the conduct of elections in the county.

23 22. Defendant THOMAS SCHELLING is the Cochise County Director of Elections. He
24 is sued in his official capacity. As Director of Elections, Mr. SCHELLING is
25 responsible for administering, preparing, conducting and tallying federal, state and
26 county elections in the county.

- 1 23. Defendant CANDACE OWENS is the Coconino County Recorder. She is sued in her
2 official capacity. As the County Recorder, Ms. OWENS's responsibilities include
3 voter registration for the county as well as the conduct of elections in the county.
- 4 24. Defendant PATTY HANSEN is the Coconino County Director of Elections. She is
5 sued in her official capacity. As Director of Elections, Ms. HANSEN is responsible
6 for administering, preparing, conducting and tallying federal, state and county elections
7 in the county.
- 8 25. Defendant LINDA HAUGHT ORTEGA is the Gila County Recorder. She is sued in her
9 official capacity. As the County Recorder, Ms. ORTEGA's responsibilities include
10 voter registration for the county as well as the conduct of elections in the county.
- 11 26. Defendant DIXIE MUNDY is the Gila County Director of Elections. She is sued in her
12 official capacity. As Director of Elections, Ms. MUNDY is responsible for
13 administering, preparing, conducting and tallying federal, state and county elections
14 in the county.
- 15 27. Defendant WENDY JOHN is the Graham County Recorder. She is sued in her official
16 capacity. As the County Recorder, Ms. JOHN's responsibilities include voter
17 registration for the county as well as the conduct of elections in the county.
- 18 28. Defendant JUDY DICKERSON is the Graham County Director of Elections. She is
19 sued in her official capacity. As Director of Elections, Ms. DICKERSON is
20 responsible for administering, preparing, conducting and tallying federal, state and
21 county elections in the county.
- 22 29. Defendant BERTA MANUZ is the Greenlee County Recorder. She is sued in her
23 official capacity. As the County Recorder, Ms. MANUZ's responsibilities include
24 voter registration for the county as well as the conduct of elections in the county.
- 25 30. Defendant YVONNE PEARSON is the Greenlee County Director of Elections. She
26 is sued in her official capacity. As Director of Elections, Ms. Pearson is responsible
27

1 for administering, preparing, conducting and tallying federal, state and county elections
2 in the county.

3 31. Defendant SHELLY BAKER is the La Paz County Recorder. She is sued in her official
4 capacity. As the County Recorder, Ms. BAKER's responsibilities include voter
5 registration for the county as well as the conduct of elections in the county.

6 32. Defendant DONNA HALE is the La Paz County Director of Elections. She is sued in
7 her official capacity. As Director of Elections, Ms. HALE is responsible for
8 administering, preparing, conducting and tallying federal, state and county elections
9 in the county.

10 33. Defendant JOAN McCALL is the Mohave County Recorder. She is sued in her official
11 capacity. As the County Recorder, Ms. McCALL's responsibilities include voter
12 registration for the county as well as the conduct of elections in the county.

13 34. Defendant ALLEN TEMPERT is the Mohave County Director of Elections. He is sued
14 in his official capacity. As Director of Elections, Mr. TEMPERT is responsible for
15 administering, preparing, conducting and tallying federal, state and county elections
16 in the county.

17 35. Defendant LAURETTE JUSTMAN is the Navajo County Recorder. She is sued in her
18 official capacity. As the County Recorder, Ms. JUSTMAN's responsibilities include
19 voter registration for the county as well as the conduct of elections in the county.

20 36. Defendant KELLY DASTRUP is the Navajo County Director of Elections. She is sued
21 in her official capacity. As Director of Elections, Ms. DASTRUP is responsible for
22 administering, preparing, conducting and tallying federal, state and county elections
23 in the county.

24 37. Defendant F. ANN RODRIGUEZ is the Pima County Recorder. She is sued in her
25 official capacity. As the County Recorder, Ms. RODRIGUEZ's responsibilities
26 include voter registration for the county as well as the conduct of elections in the
27

1 county.

2 38. Defendant BRAD NELSON is the Pima County Director of Elections. He is sued in
3 his official capacity. As Director of Elections, Mr. NELSON is responsible for
4 administering, preparing, conducting and tallying federal, state and county elections
5 in the county.

6 39. Defendant LAURA DEAN-LYTLE is the Pinal County Recorder. She is sued in her
7 official capacity. As the County Recorder, Ms. DEAN-LYTLE's responsibilities
8 include voter registration for the county as well as the conduct of elections in the
9 county.

10 40. Defendant GILBERTO HOYOS is the Pinal County Director of Elections. He is sued
11 in his official capacity. As Director of Elections, Mr. HOYOS is responsible for
12 administering, preparing, conducting and tallying federal, state and county elections
13 in the county.

14 41. Defendant SUZIE SAINZ is the Santa Cruz County Recorder. She is sued in her official
15 capacity. As the County Recorder, Ms. SAINZ's responsibilities include voter
16 registration for the county as well as the conduct of elections in the county.

17 42. Defendant MELINDA MEEK is the Santa Cruz County Director of Elections. She is
18 sued in her official capacity. As Director of Elections, Ms. MEEK is responsible for
19 administering, preparing, conducting and tallying federal, state and county elections
20 in the county.

21 43. Defendant ANN WAYMAN-TRUJILLO is the Yavapai County Recorder. She is sued
22 in her official capacity. As the County Recorder, Ms. WAYMAN-TRUJILLO's
23 responsibilities include voter registration for the county as well as the conduct of
24 elections in the county.

25 44. Defendant LYNN CONSTABILE is the Yavapai County Director of Elections. She is
26 sued in her official capacity. As Director of Elections, Ms. CONSTABILE is
27

1 responsible for administering, preparing, conducting and tallying federal, state and
2 county elections in the county.

3 45. Defendant SUSAN HIGHTOWER MARLER is the Yuma County Recorder. She is sued
4 in her official capacity. As the County Recorder, Ms. MARLER's responsibilities
5 include voter registration for the county as well as the conduct of elections in the
6 county.

7 46. Defendant PATTI MADRILL is the Yuma County Director of Elections. She is sued
8 in her official capacity. As Director of Elections, Ms. MADRILL is responsible for
9 administering, preparing, conducting and tallying federal, state and county elections
10 in the county.

11 47. All Defendants are recipients of federal financial assistance to conduct voter
12 registration and elections. At all times, all Defendants herein were acting under color
13 of law.

14 **STATEMENT OF FACTS**

15 **Proposition 200 Voting-Related Provisions**

16 48. Proposition 200 is an initiative statute that was submitted to the voters of Arizona at
17 the November 2, 2004 general election. Under the Arizona Constitution, Article IV,
18 Section 1, the people of Arizona have the power to enact initiative statutes. Initiative
19 statutes become law "when approved by a majority of the votes cast thereon and upon
20 proclamation of the Governor." ARIZ. CONST. art. IV, §§ 1. Proposition 200 was
21 approved by a majority of the votes cast on November 2, 2004 and the Governor issued
22 the required proclamation on December 13, 2004.

23 49. Proposition 200 amended a number of election statutes in order to impose new
24 restrictions on voter registration and voting.

25 **Proof of Citizenship for Voter Registration**

26 50. Section 3 of Proposition 200 amends Section 16-152 of the Arizona Revised Statutes
27
28

1 in order to require that the Arizona voter registration application form include, "A
2 STATEMENT THAT THE APPLICANT SHALL SUBMIT EVIDENCE OF UNITED
3 STATES CITIZENSHIP WITH THE APPLICATION AND THAT THE REGISTRAR
4 SHALL REJECT THE APPLICATION IF NO EVIDENCE OF CITIZENSHIP IS
5 ATTACHED."

6 51. Section 4 of Proposition 200 amends Section 16-166 of the Arizona Revised Statutes
7 in order to add a new subsection F which provides in part that the "COUNTY
8 RECORDER SHALL REJECT ANY APPLICATION FOR REGISTRATION THAT IS
9 NOT ACCOMPANIED BY SATISFACTORY EVIDENCE OF UNITED STATES
10 CITIZENSHIP."

11 52. Proposition 200 further amends Section 16-166 to define the six identification
12 documents that are satisfactory evidence of U.S. citizenship: 1) an Arizona driver's
13 license issued after October 1, 1996, or a license issued by another state that verifies
14 U.S. citizenship prior to issuing licenses; 2) a U.S. birth certificate; 3) a U.S. passport;
15 4) U.S. naturalization documents; 5) another immigration document that proves
16 citizenship; 6) a Bureau of Indian Affairs card number.

17 53. Section 16-166 (F) (4) as amended by Proposition 200 requires that any voter
18 registration applicant who relies upon a naturalization certificate to prove his or her
19 U.S. citizenship may not submit a photocopy of the certificate but must present the
20 certificate in person to the County Recorder. The voter registration applicant who is
21 a naturalized citizen and who only provides the number of the naturalization certificate
22 on the voter registration application will not be added to the voter rolls until the
23 County Recorder is able to verify that number with the U.S. Immigration and
24 Naturalization Service.

25 Voter Identification for Casting a Ballot at the Polls

26 54. Section 5 of Proposition 200 amends Section 16-579 of the Arizona Revised Statutes
27
28

1 to provide that before receiving a ballot, every qualified elector "SHALL PRESENT
2 ONE FORM OF IDENTIFICATION THAT BEARS THE NAME, ADDRESS AND
3 PHOTOGRAPH OF THE ELECTOR OR TWO DIFFERENT FORMS OF
4 IDENTIFICATION THAT BEAR THE NAME AND ADDRESS OF THE ELECTOR."

5 55. The "Procedure for Proof of Identification at the Polls," issued by Defendant
6 BREWER on September 6, 2005, provides that acceptable forms of voter photo
7 identification include: a valid Arizona driver license; valid Arizona nonoperating
8 identification license; tribal enrollment card or other form of tribal identification; or
9 a valid United States federal, state, or local government issued identification. These
10 forms of identification are not acceptable for voting unless they bear the same address
11 for the voter as that listed in the county voter rolls.

12 56. The "Procedure for Proof of Identification at the Polls" further provides that
13 acceptable forms of voter non-photo identification includes: a utility bill of the
14 elector that is dated within ninety days of the date of the election; bank or credit union
15 statement that is dated within ninety days of the date of the election ; valid Arizona
16 Vehicle Registration; Indian census card; property tax statement of the elector's
17 residence; tribal enrollment card or other form of tribal identification; vehicle
18 insurance card; Recorder's Certificate; or valid United States federal, state, or local
19 government issued identification, including a voter registration card issued by the
20 county recorder. These forms of identification are not acceptable for voting unless
21 they bear the same address as that listed in the rolls for the voter.

22 57. The "Procedure for Proof of Identification at the Polls" provides that any voter at the
23 polling place who does not present satisfactory proof of identification will be provided
24 a provisional ballot. In order for the provisional ballot to be counted, the voter must
25 present satisfactory proof of identification to the County Recorder by 5:00 p.m. on
26 the fifth business day after a general election that includes an election for a federal
27

1 office or 5:00 p.m. on the third business day after any other election.

2 Effect of the Voter Registration and Identification Requirements of Proposition 200

3 58. The official Arizona voter registration form, promulgated by Defendant BREWER in
4 March 2005, states that “A complete voter registration form must also contain proof
5 of citizenship or the form will be rejected.” Defendants no longer make available or
6 distribute the federal mail voter registration application prescribed by the U.S.
7 Elections Assistance Commission. Defendants do not provide a postage-paid envelope
8 with the Arizona voter registration application.

9 59. On March 6, 2006, the United States Election Assistance Commission (EAC) wrote
10 to Defendant BREWER in response to her request that the EAC “apply Arizona state
11 policy (derived from Proposition 200) to the Federal Mail Voter Registration Form.”
12 In its letter the EAC informed Defendant BREWER that “Arizona may not refuse to
13 register individuals to vote in a Federal election for failing to provide supplemental
14 proof of citizenship, if they have properly completed and timely submitted the Federal
15 Registration Form.

16 60. On March 13, 2006, Defendant BREWER responded to the EAC charging that the
17 EAC’s opinion was “completely inconsistent, unlawful, and without merit.” The letter
18 further stated that “After consulting with the Arizona Attorney General, I will instruct
19 Arizona’s county recorders to continue to administer and enforce the requirement that
20 all voters provide evidence of citizenship when registering to vote as specified in
21 A.R.S. § 16-166(F).”

22 61. On March 13, 2006, State Election Director Joseph Kanefield wrote to the State’s
23 county recorders informing them of Defendant BREWER’s “position that the proof
24 of citizenship requirement set forth in A.R.S. § 16-166(F) must continue to be
25 enforced for all newly registered voters and voters moving from one county to
26 another.”

1 62. On May 3, 2006, Plaintiff LUCIANO VALENCIA appeared in person at the Pima
2 County Recorder's Office and presented the clerk with a completed federal mail voter
3 registration form prescribed by the U.S. Election Assistance Commission. The clerk
4 did not accept the federal mail voter registration form and informed Mr. Valencia that
5 he could not be registered without documentary proof of citizenship because of the
6 requirements of Proposition 200.

7 63. Upon information and belief, all Defendant Arizona county recorders are complying
8 with Defendant BREWER's directive to them that they reject properly-completed
9 federal mail voter registration applications that are not accompanied by the
10 documentary proof of citizenship required by Proposition 200.

11 64. As a result of Proposition 200, naturalized citizens who seek to register to vote and
12 use their naturalization document as proof of U.S. citizenship are forced to present
13 their naturalization document in person at the office of the County Recorder.
14 Naturalized citizens may not provide a photocopy of the naturalization document to the
15 County Recorder.

16 65. On August 18, 2005, Plaintiffs MARIA GONZALEZ and JESUS GONZALEZ properly
17 completed voter registration applications and submitted their applications to the Yuma
18 County Recorder. As required, Plaintiffs MARIA GONZALEZ and JESUS
19 GONZALEZ provided the number of their certificate of naturalization on the voter
20 registration form.

21 66. Plaintiffs MARIA GONZALEZ and JESUS GONZALEZ subsequently received from
22 the Yuma County Recorder a notice informing them that they did not provide
23 satisfactory proof of citizenship and enclosing their original registration applications
24 with an indication that they must provide personal immigration information not
25 required by Proposition 200. To this day, Plaintiffs MARIA GONZALEZ and JESUS
26 GONZALEZ have not been added to the voter rolls in Yuma County.