

**TAB A**

**State Defendants' Response to Navajo Nation Plaintiffs' Asserted "Facts"  
in Opposition to Summary Judgment**

Navajo Nation Plaintiffs' Asserted "Fact"	Response
<p>1 Whether an elector is a citizen is determined at the time of registration. A.R.S. § 16-101.</p>	<p>The asserted "fact" is not material to Defendants' motion. In addition, the statement is Plaintiffs' legal characterization of the cited statute.</p>
<p>2 Whether an individual is eligible to vote under A.R.S. § 16-101 is determined at the time of registration.</p>	<p>The asserted "fact" is not material to Defendants' motion. In addition, the statement is Plaintiffs' legal characterization of the cited statute.</p>
<p>3 Navajo electors living on the Navajo Reservation do not have street addresses, rural route numbers or any other standard form. Addresses typically describe the location of a residence by distance from a landmark, such as a Chapter House. The same address can appear in several different formats making comparison difficult. [Tab 1, Prel. Inj. Hr'g Exh. 115 at 3]</p>	<p>The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).</p>
<p>4 Navajos living on the Reservation do not receive mail at their homes. [Tab 3, Prel. Inj. Hr'g Tr. 8/30/06 at 52]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>5 Navajo electors living on the Navajo Reservation do not receive property tax statements. [Tab 1, Prel. Inj. Hr'g Exh. 115 at 3]</p>	<p>The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).</p>
<p>6 Forty-two percent of Navajos live below the poverty level. [Tab 4, Prel. Inj. Hr'g Exh. 109 at 3]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>7 Thirty-four percent of the housing units on the Navajo Reservation lack complete plumbing. [Tab 4, Prel. Inj. Hr'g Exh. 109 at 4]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>8 Sixty-three percent of the housing units on the Navajo Reservation lack telephone service. [Tab 4, Prel. Inj. Hr'g Exh. 109 at 4]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>9 Over fifty-six percent of the Navajo households are heated by wood.</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>

Navajo Nation Plaintiffs' Asserted "Fact"	Response
[Tab 4, Prel. Inj. Hr'g Exh. 109 at 4]	
10 At least twenty percent of the homes on the Arizona portion of the Navajo Reservation lack access to a vehicle. [Tab 4, Prel. Inj. Hr'g Exh. 109 at 4]	The asserted "fact" is not material to Defendants' motion.
11 Navajos do not have tribal treaty cards or census cards. [Tab 3, Prel. Inj. Hr'g Tr. 8/30/06 at 58]	The asserted "fact" is not material to Defendants' motion.
12 The Navajo Nation does not issue tribal identification cards. [Tab 1, Prel. Inj. Hr'g Exh. 115 at 3; Tab 3, Prel. Inj. Hr'g Tr. 8/30/06 at 58]	The asserted "fact" is not material to Defendants' motion. To the extent the asserted "fact" is based upon the materials submitted under Tab 1 of the Navajo Nation Plaintiffs' factual submission, such "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).
13 Navajo electors vote at the polls at much higher rates than off-reservation voters in Navajo, Coconino, and Apache Counties. [Tabs 5, 6, 7, 8, Pre. Inj. Hr'g Exh. 124, 125, 126, 127]	The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).
14 Within Navajo, Apache, and Coconino Counties, Navajos utilize early voting at significantly lower rates than off-reservation voters. [Tab 8, Prel. Inj. Hr'g Exh. 127; Tab 9, Prel. Inj. Hr'g Exh. 181]	The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).
15 A higher percentage of Navajo voters filed conditional provisional ballots than non-Reservation voters in Navajo, Coconino, and Apache Counties. [Id.]	The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).
16 A higher percentage of conditional provisional ballots cast on the Navajo Reservation were not counted than those cast in non-Reservation precincts in Navajo, Coconino, and Apache Counties. [Id.]	The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).

Navajo Nation Plaintiffs' Asserted "Fact"	Response
<p>17 In-person early voting is one method by which Arizona registered voters can vote. See A.R.S. § 16-541(A). Procedures for in-person early voting are exactly the same as in-person voting on election day, except that voters need not present Polling ID to vote early. [Oct. 11 Order, at 3-4]</p>	<p>The first sentence is true. The second asserted "fact" in the second sentence is supported by neither the Court's Order dated 10/11/06 nor by the Arizona Revised Statutes, which set out specific (and different) procedures for early voting and in-person voting. Compare, e.g., A.R.S. §§ 16-542, 16-550, 16-552 with A.R.S. §§ 16-579, 16-583, 16-584.</p>
<p>18 The Navajo language is an oral language. [Tab 3, Prel. Inj. Hr'g 8/30/06 at 44-45; Tab 10, Prel. Inj. Hr'g Exh. 165].</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>19 Approximately 50,765 of the 61,505 adults living on the Arizona portion of the Navajo Reservation speak Navajo at home. Of the adult Navajo speakers, approximately 17%, or 8,605, are Limited English Proficient. [Tab 11, Prel. Inj. Hr'g Exh. 117 at 1]</p>	<p>The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is not supported by admissible evidence for the reasons stated in Defendants' reply (at 4 n.6).</p>
<p>20 Pursuant to sections 4(f)(4) and 203 of the Voting Rights Act, Apache, Navajo, and Coconino counties must provide language assistance to Navajo voters who are Limited English Proficient. See 42 U.S.C. §§ 1973b(f), 1973aa-1a; 28 C.F.R. Part 55.</p>	<p>The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is Plaintiffs' legal characterization of the cited statutes and regulations.</p>
<p>21 Language assistance must be made available for traditional Navajos who are Limited English Proficient in order to complete an early ballot or ballot at the polls on Election Day. [Tab 10, Prel. Inj. Hr'g Exh. 165]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>22 Navajos have less opportunity than non-Reservation voters to request and complete an early ballot. For the November 7, 2006 General Election, the Navajo ballot translation was not available until October 20, 2006. Training for translators was not complete until November 3, 2006. [Tab 10, Prel. Inj. Hr'g Exh. 165 at 2; Tabs 12 and 13, Prel. Inj. Hr'g Exh. 140-141]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>

**TAB B**

**State Defendants' Response to ITCA Plaintiffs' Asserted "Facts" in Opposition to Summary Judgment**

ITCA Plaintiffs' Asserted "Fact"	Response
<p>1 From January 2005 to July 2006, defendants rejected 20,713 voter registration forms because they were submitted without "satisfactory evidence of citizenship." <i>Id.</i>, (Hartman-Tellez Decl.) Ex. B, at 5]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>2 From July 14, 2006 to June 19, 2007, 8,318 Maricopa County residents were not added to the voter registration list because they submitted voter registration applications without "satisfactory evidence of citizenship." <i>Id.</i>, Ex. 1, at 2]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>3 From July 1, 2006 to June 30, 2007, Coconino County rejected 260 voter registration forms because they were submitted without "satisfactory evidence of citizenship." <i>Id.</i>, Ex. J] Of those 260 rejected registrants, only 59 later provided "satisfactory evidence of citizenship." <i>Id.</i>, ¶ 13] As such, 201 registrants were <i>not</i> added to the voter registration rolls. <i>Id.</i>] This 77 percent failure rate is substantially higher than the 61.2 percent registration failure rate that Coconino County experienced between January 24, 2005 and June 30, 2006. [See <i>id.</i>, Ex. B, at 5]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>4 From July 2006 through June 2007, 267 Yavapai County residents, 88 Graham County residents and one Greenlee County resident were not added to the voter registration list because they submitted voter registration applications without "satisfactory evidence of citizenship." <i>Id.</i>, Ex. K-M]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>5 In sum, since July 2006, five Arizona counties have rejected 8,875 voter registration applications. <i>Id.</i>, Ex. 1-M] Since January 24, 2005, no fewer than 29,588 voter registration applications have been rejected – nearly 30,000 rejected registration forms, with two-thirds of the counties still to report their rejections since July 2006.</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>6 As of July 2006, an estimated 28,540 Arizonans eligible to register to vote, but not yet registered, lacked "satisfactory evidence of citizenship." <i>Id.</i> Ex. B, at 2]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>

ITCA Plaintiffs' Asserted "Fact"	Response
7 A person cannot obtain "satisfactory evidence of citizenship" without paying a fee of at least \$10. [Oct. 11 Order, at 9]	The asserted "fact" is not material to Defendants' motion.
8 From July 1, 2004 to July 1, 2006, Arizona's population <i>increased</i> by almost five hundred thousand people: from 5,845,250 to 6,305,210 (7.87 percent). [Hartman-Tellez Decl., Ex. N] From January 1, 2005 until April 1, 2007, however, voter registration <i>declined</i> by almost 100,000. Indeed, on January 1, 2005, 2,706,223 individuals were registered to vote in Arizona, but as of April 1, 2007, only 2,609,585 individuals are registered to vote – a 3.57 percent <i>decrease</i> . [ <i>Id.</i> , Ex. O]	The asserted "fact" is not material to Defendants' motion.
9 Excluding "Official Election Mail" addressed to an individual voter and some forms of identification issued by Native American tribal governments, Polling ID cannot be obtained without payment of a fee for the identification itself or for a service such as a bank account or utility service. [ <i>See id.</i> , Ex. H]	The asserted "fact" is not material to Defendants' motion.
10 Arizona counties are not required by law to send "Official Election Mail" individually addressed to every registered voter. [ <i>See id.</i> , Ex. F] Indeed, most Arizona counties do not send Official Election Mail to "inactive" registered voters. [ <i>See id.</i> , Ex. P, at 111:12-20]	The asserted "fact" is not material to Defendants' motion. In addition, the first sentence of the asserted "fact" is plaintiffs' interpretation of law rather than fact.
11 Arizona counties are not required by law to accept "Official Election Mail" as Polling ID, and some Arizona counties do not. [ <i>See id.</i> , Ex. F-H]	The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is Plaintiffs' interpretation of law rather than fact.
12 In-person early voting is one method by which Arizona registered voters can vote. <i>See</i> A.R.S. § 16-541(A). Procedures for in-person early voting are exactly the same as in-person voting on election day, except that voters need not present Polling ID to vote early. [Oct. 11 Order, at 3-4]	The first sentence is true. The asserted "fact" in the second sentence is supported by neither the Court's Order dated 10/11/06 nor by the Arizona Revised Statutes, which set out specific (and different) procedures for early voting and in-person voting. <i>Compare, e.g.</i> , A.R.S. §§ 16-542, 16-550, 16-552 <i>with</i> A.R.S. §§ 16-579, 16-583, 16-584.
13 Counties do not provide as many early voting sites as election day polling places. [ <i>See</i> Hartman-Tellez Decl., Ex. P, at 106:10-12, 109:5-8]	The asserted "fact" is not material to Defendants' motion.

ITCA Plaintiffs' Asserted "Fact"	Response
<p>14 Pursuant to sections 4(f)(4) and 203 of the Voting Rights Act, Arizona counties must provide language assistance to voters. <i>See</i> 42 U.S.C. §§ 1973b(f), 1973aa-1a; 28 C.F.R. Part 55, App. Language assistance is not always available to early voters. [See Hartman-Tellez Decl., Ex. P, at 107:25-108-9]</p>	<p>The asserted "fact" is not material to Defendants' motion. In addition, the asserted "fact" is Plaintiffs' legal characterization of the cited statutes and regulations.</p>
<p>15 Mail delivery is not available to all voters. [<i>Id.</i>, at 109:20-110:2] Only approximately 17 percent of households on Indian Reservations receive home mail delivery. [<i>Id.</i>, Ex. B, at 13]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>16 During the November 7, 2006 general election at least 2,422 voters exited polling places without casting any type of ballot at all after being asked to present Polling ID. [<i>Id.</i>, Ex. Q]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>17 Since Arizona implemented its Polling ID procedure, 1,962 voters in just three Arizona counties (Maricopa, Greenlee and Yavapai) cast conditional provisional ballots, but did not return to an ID verification site to provide Polling ID – as such, their ballots were not counted. [<i>Id.</i>, Ex. L, K, M] More than 60 percent of voters who cast conditional provisional ballots in these three counties did not return to provide Polling ID. [<i>Id.</i>]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>
<p>18 The record contains no evidence of fraudulent voting by ineligible voters. Indeed, Arizona counties have not reported a single instance of imposter voting on election day. [<i>Eg. id.</i>, Ex. P, at 101:23-102:1] Moreover, eight of the ten Maricopa County prosecutions against non-citizens who allegedly registered to vote have been dismissed. [<i>See id.</i>, Ex. R] Neither of the two individuals who pleaded guilty to misdemeanor presentation of false instrument charges is alleged to have ever voted in Arizona. [<i>See id.</i>, Ex. S]</p>	<p>The asserted "fact" is not material to Defendants' motion.</p>

TAB C

**State Defendants' Response to Gonzalez Plaintiffs' Asserted "Facts" in Opposition to Summary Judgment**

Paragraph	Response
1-51	The asserted "facts" in these paragraphs are improper legal argument. They do not create any genuine issue as to any fact that is material to Defendants' motion. Moreover, 31 of these paragraphs are not even cited in Plaintiffs' opposition to Defendants' motion.
52	The asserted "fact" is not material to Defendants' motion.
53	The asserted "fact" is not material to Defendants' motion.
54	The asserted "fact" is not material to Defendants' motion.
55	The asserted "fact" is not material to Defendants' motion.
56	The asserted "fact" is not material to Defendants' motion.
57	The asserted "fact" is not material to Defendants' motion.
58	Arizona's preclearance submission to the Department of Justice is not in dispute. The legal effect of that submission is a matter that may be decided by the Court.
59	The asserted "fact" is not material to Defendants' motion.
60	The asserted "fact" is not material to Defendants' motion.
61	The asserted "fact" is not material to Defendants' motion.
62	The asserted "fact" is not material to Defendants' motion.
63	The asserted "fact" is not material to Defendants' motion.
64	The asserted "fact" is not material to Defendants' motion.
65	The asserted statement is an admission by Plaintiffs that the Secretary of State makes the federal voter registration form available to the public. In addition, Plaintiffs do not rely upon this paragraph in their opposition to Defendants' summary judgment motion.
66	The asserted "fact" is based on incomplete submission of Ms. Osborne's deposition testimony. Ms. Osborne actually testified as follows: "Q. Do you make the federal mail voter registration form available in your office? A. We don't. It's on-line and if

Para- graph	Response
	somebody – I never had anybody ask us for one, but we have them on-line if somebody came in.” [Second Declaration of Counsel (filed 8/02/07), Tab 9 (Dep. of Karen Osborne) at 42:22-43:1]
67	The asserted “fact” is not material to Defendants’ motion. In addition, Plaintiffs do not rely upon this paragraph in their opposition to Defendants’ summary judgment motion.
68	The asserted “fact” is not material to Defendants’ motion.
69	The asserted “fact” is not material to Defendants’ motion. In addition, Plaintiffs do not rely upon this paragraph in their opposition to Defendants’ summary judgment motion.
70	The asserted “fact” is not material to Defendants’ motion. In addition, Plaintiffs do not rely upon this paragraph in their opposition to Defendants’ summary judgment motion.
71	The asserted “fact” is not material to Defendants’ motion. In addition, Plaintiffs do not rely upon this paragraph in their opposition to Defendants’ summary judgment motion.
72	The asserted “fact” is not material to Defendants’ motion. In addition, Plaintiffs do not rely upon this paragraph in their opposition to Defendants’ summary judgment motion.
73	The asserted “fact” is not material to Defendants’ motion.
74	The asserted “fact” is not material to Defendants’ motion.
75	The asserted “fact” is not material to Defendants’ motion.
76	The asserted “fact” is not material to Defendants’ motion. In addition, Plaintiffs do not rely upon this paragraph in their opposition to Defendants’ summary judgment motion.
77	The asserted “fact” is not material to Defendants’ motion.