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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-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.

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER

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 I. INTRODUCTION

28 Arizona has, unlike any other state in the union, implemented onerous voter registration requirements, *see* A.R.S. § 16-166(F), that violate federal voting rights laws. Proposition 200 significantly altered the voter registration landscape in Arizona by requiring voters to furnish documentary proof of citizenship as part of the state's voter registration eligibility requirements. Now, every voter registration application collected by national, state, or local voter registration organizations, or through the Arizona Motor Vehicles Department or other state agencies, that does not include documentary proof of citizenship will not be processed and the voter will remain unregistered despite fulfilling the state's other voter eligibility requirements.

The State of Arizona implemented Proposition 200's proof of citizenship requirement in January 2005 and the number of rejected voter registration applications has revealed

1 Proposition 200's substantial, negative effect on registration. In Maricopa County, for
2 example, from January 2005 until March 2006, approximately 12,000 voter registration
3 applications were rejected simply for failure to provide documentary proof of citizenship.¹

4 The United States Constitution requires invalidation and forbids implementation of a
5 state statutory scheme for regulation of voter registration that conflicts with federal voting
6 rights law. Under the Supremacy Clause, Congress has the constitutional prerogative to
7 regulate voter registration and to preclude contrary schemes in federal elections. Congress
8 has established a comprehensive registration system for federal elections through, among
9 other statutes, the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg *et seq.*
10 (NVRA). Proposition 200's highly restrictive provisions, under which thousands of people
11 have already had their registration applications rejected for federal elections, underscore its
12 fundamental conflict with the NVRA. Proposition 200 interferes with Congress' authority
13 under the Constitution to regulate the federal election registration process and to ensure the
14 removal, not creation of obstacles to the franchise. Because Proposition 200 impermissibly
15 conflicts with the NVRA, Plaintiffs ask this Court to enjoin its implementation.

16 In addition, although Arizona submitted Proposition 200 for federal preclearance as
17 required by Section 5 of the Voting Rights Act of 1965, and received preclearance from the
18 U.S. Department of Justice on January 24, 2005, Arizona did not explain in its submission that
19 it would cease to use and accept the federal mail voter registration form mandated by the
20 NVRA, a federal law which the U.S. Department of Justice is charged with enforcing.

21 Unless enjoined, county officials are bound under Proposition 200's voter registration
22 provisions to continue to reject voter application forms that fail to provide documentary proof
23 of citizenship. Plaintiffs seek relief in advance of the August 14, 2006 voter registration
24 deadline for the September 2006 primary election. Accordingly, Plaintiffs request that this

25
26 ¹See Bernal Decl. attached as Exhibit A (Exhibit 4, Correspondence from Colleen Connor,
27 Deputy County Attorney for Maricopa County).

1 Court grant a temporary restraining order and preliminary injunction invalidating the voter
2 registration provisions of Proposition 200.

3 II. BACKGROUND

4 A. The Initiative

5 Proposition 200 was approved by a majority of Arizona voters on November 2, 2004.
6 It consists of seven sections: a short title (section 1); findings and declaration (section 2);
7 a section regarding severability of the initiative (section 7); and four substantive sections,
8 three of which relate to voting (sections 3, 4, and 5) and one of which requires verifying the
9 immigration status of applicants for public benefits and reporting of any violation of federal
10 immigration law by any applicant (section 6). This motion challenges Sections 3 and 4, which
11 impose stringent voter registration requirements that have had and will continue to have a
12 significant, negative effect on the ability of many eligible citizens to register to vote.²

13 Section 3 amends A.R.S. § 16-152 to require that the Arizona form used for the
14 registration of electors contain a “statement that the applicant shall submit evidence of United
15 States citizenship with the application and that the registrar shall reject the application if no
16 evidence of citizenship is attached.”³

17 Section 4 amends A.R.S. § 16-166 to require the County Recorder to prevent voters
18 from registering to vote, or from re-registering after moving to a new county, unless they
19 provide one of the six types of identification documents that Proposition 200 considers to
20 be satisfactory evidence of U.S. citizenship. These are: 1) an Arizona driver’s license or
21 non-operating identification license issued after October 1, 1996, or a license issued by
22 another state that verifies U.S. citizenship prior to issuing licenses; 2) a U.S. birth certificate;
23 3) a U.S. passport; 4) U.S. naturalization documents; 5) “other documents or methods of proof
24 that are established pursuant to the Immigration Reform And Control Act of 1986 [(IRCA)]”;

25
26 ²See Bernal Decl. attached as Exhibit A (Exhibit 1, Statutes amended by Proposition 200)

27 ³*Id.*

1 6) a Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment
2 number. A.R.S. § 16-166.⁴

3 Proposition 200's citizenship verification requirements differ significantly from those
4 existing previously. Under the former A.R.S. § 16-152, a voter registration form did not
5 require an Arizona license or even a non-operating identification license. For those without
6 those forms of identification, the applicant was provided with “a unique identifying number
7 consisting of the registrant’s unique identification number to be assigned by the secretary of
8 state . . .” See A.R.S. § 16-152(A)(12)(c). Registrants signed attestations that they were
9 United States citizens, residents of the state and county, over the age of eighteen before
10 election day, not convicted of a felony for which their civil rights had not been restored, and
11 acknowledging that executing a false registration form is a class 6 felony. See A.R.S.
12 16-152(A)(14)-(19).⁵

13 B. Proposition 200 has already resulted in the rejection of a large number of voter
14 registration applications.

15 Since the documentary proof of citizenship requirement took effect in early 2005,
16 many citizens have had their registration applications rejected for failure to provide adequate
17 proof of citizenship. As of April 15, 2005 Maricopa County had rejected or put on hold 3158
18 of 6753 registration applications – approximately 46%.

19 On May 6, 2005, the Pima County Registrar of Voters reported that, in the past two
20

21
22 ⁴*Id.*

23 ⁵The former A.R.S. § 16-152 was implemented to bring Arizona in line with Section
24 303 of the Help America Vote Act of 2002 (HAVA), which, among other things, required
25 voter registration applications to make an affirmative statement of “yes” to the specific
26 question, “Are you a United States citizen?” with a yes/no check box. The post-HAVA
27 Arizona registration form also has a place for the applicant to sign, attesting under penalty
28 of perjury that he/she is a United States citizen and eligible to vote. See 42 U.S.C. § 15301
et seq. (2002).

1 weeks, the county rejected 423 of 712 registration applications – approximately 56%.⁶
2 According to the Registrar, his office had “rejected none during the same period last year,”
3 even though it received six times as many registration applications for the presidential
4 election.⁷

5 Plaintiff Luciano Valencia is eligible to vote and completed the federal mail voter
6 registration form after obtaining it from the internet website of the U.S. Election Assistance
7 Commission. On May 3, 2006, Luciano Valencia appeared in person at the Pima County
8 Recorder’s Office and presented the clerk with the completed federal mail voter registration
9 form prescribed by the U.S. Election Assistance Commission. The clerk informed Mr.
10 Valencia that he could not be registered without documentary proof of citizenship because
11 of the requirements of Proposition 200.⁸

12 In addition, plaintiff organizations that conduct community-based voter registration in
13 order to fulfill their organizational goals have been impeded in their ability to register voters
14 since Proposition 200's documentary proof of citizenship requirements have gone into
15 effect.⁹ Proposition 200 requires any individual or organization that seeks to conduct voter
16 registration in the community to bring a photocopy machine or a scanner with them in order
17 to make copies of the citizenship documents of voter registration applicants who do not have
18 a driver’s license or non-driver’s identification card dated after 1996.

19 III. ARGUMENT: PLAINTIFFS SATISFY THE STANDARD FOR INJUNCTIVE RELIEF.

20 This Circuit has described two sets of criteria to obtain a preliminary injunction.
21 “Under the ‘traditional’ criteria, a plaintiff must show ‘(1) a strong likelihood of success on
22

23 ⁶*Large number of voter registration forms rejected by county, Arizona Central,*
24 May 6, 2005, available at <http://www.kvoa.com/Global/story.asp?S=3310086&nav=HMO5LT5P>

25 ⁷*Id.*

26 ⁸*See* Valencia Decl. attached as Exhibit B.

27 ⁹*See* Camarillo Decl. attached as Exhibit C.

1 the merits, (2) the possibility of irreparable injury to plaintiff if preliminary relief is not
2 granted, (3) a balance of hardships favoring the plaintiff, and (4) advancement of the public
3 interest” *Earth Island Institute v. U.S. Forest Service*, 351 F.3d 1291, 1297
4 (9th Cir. 2003) (citation omitted). Alternatively, a plaintiff must demonstrate “either a
5 combination of probable success on the merits and the possibility of irreparable injury or that
6 serious questions are raised and the balance of hardships tips sharply in his favor.” *Save Our
7 Sonoran, Inc. v. Flowers*, 381 F.3d 905, 912 (9th Cir. 2004) (citation omitted). As this
8 Circuit has repeatedly stated, “These two formulations represent two points on a sliding scale
9 in which the required degree of irreparable harm increases as the probability of success
10 decreases. They are not separate tests but rather outer reaches of a single continuum.” *Id.*
11 (citation omitted). Ultimately, the court’s task is to “balance the equities in the exercise of
12 its discretion.” *International Jensen, Inc. v. Metrosound U.S.A., Inc.*, 4 F.3d 819, 822 (9th
13 Cir. 1993).

14 In the context of a Section 5 preclearance violation, courts have found that a simpler
15 preliminary injunction test applies to requests for injunctive relief. *United States v.*
16 *Louisiana*, 952 F.Supp. 1151 (W.D. La. 1997), *aff’d*, 521 U.S. 1101 (1997). The court in
17 *U.S. v. Louisiana* engaged in a three-part inquiry: (1) whether a change was covered by
18 Section 5; (2) if the change was covered, whether Section 5’s approval requirements were
19 satisfied; and (3) if the requirements were not satisfied, what remedy is appropriate. *Id.* at
20 1158. Regardless of the test employed in this case, Plaintiffs are entitled to an injunction.
21 Plaintiffs easily satisfy the sliding scale standard established for issuance of preliminary
22 injunctions and Plaintiffs have a substantial probability of success on the merits.

23 A. Plaintiffs Are Likely to Succeed on the Merits Because Proposition 200 is
24 Preempted by the National Voter Registration Act of 1993.

25 Through the National Voter Registration Act of 1993 (“NVRA”), Congress has
26 expressly recognized that “the right of citizens of the United States to vote is a fundamental
27 right,” and that “it is the duty of the Federal, State, and local governments to promote the

1 exercise of that right.” 42 U.S.C. 1973gg(a)(1-2). In addition, Congress has found that
2 “registration laws and procedures can have a direct and damaging effect on voter participation
3 in elections for Federal office and disproportionately harm voter participation by various
4 groups, including racial minorities.” 42 U.S.C. 1973gg(a)(3).

5 As a result, Congress has enacted measures (1) to establish procedures that will
6 increase the number of eligible citizens who register to vote in elections for Federal office;
7 (2) to make it possible for Federal, State, and local governments to implement this subchapter
8 in a manner that enhances the participation of eligible citizens as voters in elections for
9 Federal office; (3) to protect the integrity of the electoral process; and
10 (4) to ensure that accurate and current voter registration rolls are maintained.

11 42 U.S.C. § 1973gg(b).

12 Proposition 200 ignores the procedures established by Congress to “increase the
13 number of eligible citizens who register to vote.” *See* 42 U.S.C. § 1973gg(b)(1). Contrary
14 to federal law, Proposition 200 requires a driver’s license, birth certificate, U.S. passport or
15 naturalization document; it does not permit an applicant to provide a social security number.

16 More important, contrary to federal law, Proposition 200 provides no “[s]pecial rule
17 for applicants without driver's license or social security number.” 42 U.S.C. §
18 15483(a)(5)(A)(ii). Where federal law expressly requires the registration of individuals who
19 lack one of the two specified forms of identification – one of which is free – Proposition 200
20 expressly denies registration to individuals who have not purchased a specific form of
21 identification.

22 Proposition 200 imposes new registration requirements that are in direct conflict with
23 both the letter and spirit of the NVRA. The conflict with the NVRA is not merely speculative,
24 as several thousand Arizonans have had their registration forms rejected as a direct result of
25 Proposition 200. Because Proposition 200's registration requirements are preempted by
26 Congressional authority under the NVRA, they must be struck down.

1 1. The Constitution Empowers Congress To Regulate Congressional Elections.

2 Under the Art. I Section. 4 cl. 1 of the United States Constitution, known as the
3 “Elections Clause,” Congress is reserved the right to regulate the manner of holding
4 congressional elections.¹⁰ U.S. CONST., art I, s. 4 cl. 1. The Supreme Court has often
5 interpreted the Election Clause and upheld Congressional authority to preempt contrary state
6 laws.

7 In 1879, the Court in *Ex Parte Siebold*, 100 U.S. 371 (1879), upheld Congressional
8 authority to impose penalties for violating laws governing the election of congressional
9 members. The Court stated that the Elections Clause conferred upon Congress authority to
10 regulate congressional elections and that the “power of Congress over the subject is
11 paramount.” *Id.* at 384. It also opined that “[w]hen exercised, the action of Congress, so far
12 as it extends and conflicts with the regulations of the State, necessarily supersedes them.”
13 *Id.*

14 Several years later, in 1884, the Supreme Court upheld federal laws that protected
15 voters, in this case an African American voter, from harassment and intimidation while
16 “enjoying the right and privilege of suffrage in the election of a lawfully qualified person as
17 a member of the congress of the United States of America.” *Ex Parte Yarbrough*, 110 U.S.
18 651, 656 (1884). In what are known as the Ku-Klux Cases, the Court held that, under the
19 Election Clause, that Congress has unfettered authority to act when it “finds it necessary to
20 make additional laws for the free, the pure, and the safe exercise of this right of voting”
21 *Id.* at 662.

22 In *Smiley v. Holm*, 285 U.S. 355 (1932), the Court interpreted the Election Clause
23

24 ¹⁰The Election Clause reads:

25 “The Times, Places and Manner of holding Elections for Senators and
26 Representatives, shall be prescribed in each State by the Legislature thereof; but the
27 Congress may at any time by Law make or alter such Regulations, except as to the Places of
28 chusing [sic] Senators.”

1 expansively, stating:

2 It cannot be doubted that these comprehensive words embrace authority to provide a
3 complete code for congressional elections, not only as to times and places, but in
4 relation to notices, registration, supervision of voting, protection of voters, prevention
5 of fraud and corrupt practices, counting of votes, duties of inspectors and canvassers,
6 and making and publication of election returns; in short, to enact the numerous
7 requirements as to procedure and safeguards which experience shows are necessary
8 in order to enforce the fundamental right involved. And these requirements would be
9 nugatory if they did not have appropriate sanctions in the definition of offenses and
10 punishments. All this is comprised in the subject of 'times, places and manner of
11 holding elections,' and involves lawmaking in its essential features and most important
12 aspect.

13 Id. at 366. (Emphasis added).

14 In *Foster v. Love*, 522 U.S. 67 (1997), the Supreme Court again reaffirmed
15 Congressional power to regulate the date of elections for congressional members by striking
16 down a Louisiana law in place since 1978, that set an open primary election in October. The
17 Court noted that the Election Clause “is a default provision; it invests the States with
18 responsibility for the mechanics of congressional elections, see *Storer v. Brown*, 415 U.S.
19 724, 730 (1974), but only so far as Congress declines to preempt state legislative choices,
20 see *Roudebush v. Hartke*, 405 U.S. 15, 24, (1972) (‘Unless Congress acts, Art. I, § 4,
21 empowers the States to regulate’).”¹¹ The Court found well-settled Congressional “‘power to
22 override state regulations’ by establishing uniform rules for federal elections, binding on the
23 States.” See *Foster*, 522 U.S. at 69 (citing *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779,
24 832-33 (1995)).

25 ¹¹Although states have been granted the authority to legislate on the “time, place, and
26 manner” of elections, under the Constitution, it is only “to the extent that Congress has not
27 restricted state action by the exercise of its powers to regulate elections under s 4 and its
28 more general power under Article I, s 8, clause 18 of the Constitution ‘To make all Laws
which shall be necessary and proper for carrying into Execution the foregoing Powers.’”
United States v. Classic, 313 U.S. 299, 315 (1941); see also *Oregon v. Mitchell*, 400 U.S.
112 (1970) (upholding constitutionality of federal statute barring a state from denying the
right to vote in any election because of a literacy test). The provision confers on Congress
a “general supervisory power,” *Ex parte Siebold*, *supra*, 100 U.S. 371 (1879), under which
it may “supplement . . . state regulations or may substitute its own.” *Smiley v. Holm*, 285
U.S. at 366-67 (1932); see also *Ex parte Yarbrough*, 110 U.S. 651 (1884).

1 the Election Clause conferred upon Congress the ability “to regulate voter registration
2 procedures [under the NVRA], by virtue of its power to control the ‘manner’ of holding
3 elections.” *ACORN*, 129 F.3d at 836 n.2. Similarly, the Ninth Circuit *Voting Rights*
4 *Coalition* Court held that Congressional imposition of voter registration requirements under
5 the NVRA and the costs associated with their administration, was proper under the Election
6 Clause. *Voting Rights Coalition*, 60 F.3d at 1413-16; *see also ACORN v. Edgar*, 56 F.3d at
7 796 (holding the same and stating “[s]o much for the merits of Illinois’ constitutional
8 challenge to the ‘motor voter’ law.”).

9 3. Congress Enacted the NVRA To Create Uniform Procedures and Prohibit
10 Restrictive State Voter Registration Laws.

11 Under 42 U.S.C. § 1973gg-2(a), Congress stated its intent to establish mandatory
12 procedures for voter registration in federal elections:

13 Except as provided in subsection (b) of this section, notwithstanding any other Federal
14 or State law, in addition to any other method of voter registration provided for under
15 State law, each State shall establish procedures to register to vote in elections for
16 Federal office [according the provisions outlined in this section].

17 *See id.*; *see also* S. Rep. 103-6, at 3-4. Congress intended “to establish procedures that will
18 increase the number of eligible citizens who register to vote in elections for Federal office.”
19 42 U.S.C. §§ 1973gg(b)(1). Citing the declining voter participation in the 1988, 1990, and
20 1992 presidential and congressional elections where turnout was as low as 36% and where
21 as many as 70 million eligible voters were not registered, Congress sought “to eliminate state
22 interference” with the conduct of federal elections, particularly in the administration of voter
23 registration. *See Condon v. Reno*, 913 F. Supp. 946, 948-49 (D. S.C. 1995); S. Rep. 103-6,
24 at 2.

25 Following numerous hearings, Congress found that then-existing registration
26 requirements created two types of problems: low voter turnout and unequal access to voting
27
28

1 among different categories of citizens.¹³ Witness after witness testified before Congress that
2 voter registration, rather than serving facilitate orderly elections, was in fact operating as a
3 significant barrier to voting. *See Condon*, 913 F.Supp. at 949. Based on this testimony,
4 Congress declared:

5 [t]he right of citizens of the United States to vote is a fundamental right;” [and] “it is
6 the duty of Federal, State, and local governments to promote the exercise of that
7 right.” “[D]iscriminatory and unfair registration laws and procedures can have a direct
8 and damaging effect on voter participation in elections for Federal office and
9 disproportionately harm voter participation by various groups, including racial
10 minorities.

11 *See* 42 U.S.C. § 1973gg(a)(1)-(3); S. Rep. 103-6, at 2.

12 To address low voter participation and to eradicate discriminatory and unfair
13 registration practices, Congress sought to implement a uniform system of voter registration
14 across the country. *See U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 832-33 (1995).

15 4. The NVRA’s Voter Registration Provisions Clearly Define The Contents Of
16 Voter Registration Applications.

17 The NVRA, with exacting specificity, outlines the requirements for mail voter
18 registration forms and registration forms made available at state agencies. Although a state
19 is allowed some flexibility to determine whether to use its own mail registration form, it must
20 nonetheless meet all the requirements of the universal federal registration form outlined in
21 section 1973gg-7(b) of the NVRA. *See* 42 U.S.C. § 1973gg-4(a)(2). The NVRA requires the
22 state mail registration form to include only such identifying information as is necessary to
23 enable the state elections officials to assess the eligibility of the applicants, *see* 42 U.S.C. §
24 1973gg-7(b)(1), and prohibits any notarization or other formal authentication requirement.
25 *See also* 42 U.S.C. § 1973gg-7(b)(3).

26 Specifically, the relevant portions of the NVRA mail voter registration form include

27 ¹³Congress’ findings are reported in H.R.Rep. No. 103-9, 103rd Cong., 1st Sess.
28 (1993), reprinted in 1993 U.S. Code Cong. & Admin. News 105 (the House Report, House
Administration Committee), and S.Rep. No. 103-6, 103rd Cong., 1st Sess. (1993) (the
Senate Report, Rules and Administration Committee).

1 the following:

2 The mail voter registration form developed under subsection (a)(2) of this section

3 (1) may require only such identifying information (including the signature of the
4 applicant) and other information (including data relating to previous registration by the
5 applicant), as is necessary to enable the appropriate State election official to assess
6 the eligibility of the applicant and to administer voter registration and other parts of
7 the election process;

8 (2) shall include a statement that -

9 (A) specifies each eligibility requirement (including citizenship);

10 (B) contains an attestation that the applicant meets each such requirement; and

11 (C) requires the signature of the applicant, under penalty of perjury;

12 (3) may not include any requirement for notarization or other formal authentication;

13 See 42 U.S.C. § 1973gg-7(b) (emphasis added).

14 The permissive language of subsection (b)(1) and the mandatory language of
15 subsection (b)(2) do not give a state free reign to request any type of additional information
16 it may see fit. To interpret the NVRA as so permitting would contradict not only the language
17 in subsection (b)(2) limiting the form of the information request to “a statement,” but also the
18 plain mandate of subsection (b)(3), which strictly forbids voter registration form
19 “requirements for notarization or other formal authentication.” See 42 U.S.C. §
20 1973gg-7(b)(3).¹⁴

21 The delineation of specific registration requirements served two important functions:

22 1) to avoid States implementing requirements that would run counter the NVRA goal of
23 removing obstacles to the registration process, and 2) to ensure uniform implementation of
24 a voter registration form for federal elections that could be used across the country in
25 national, regional, or local voter registration drives without fear that they would be rejected

26 ¹⁴The Help America Vote Act of 2002 (HAVA) represents Congress’ most recent
27 legislation relating to the voter registration process, and it is telling that it chose not to
28 impose a more onerous proof of citizenship requirement. In fact, Congress expressly
acknowledged HAVA’s compatibility with the NVRA and stated that nothing in HAVA
should be construed to supercede the NVRA. See 42 U.S.C. § 15545.