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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Maria M. Gonzalez, et al.,)	No. CV-06-1268-PHX-ROS(Lead)
)	No. CV-06-1362-PCT-ROS
Plaintiffs,)	No. CV-06-1575-PCT-ROS
)	
vs.)	GONZALEZ PLAINTIFFS'
)	MOTION FOR EXPEDITED
State of Arizona, et al,)	CONSIDERATION
)	
Defendants.)	(Assigned to the
)	Honorable Roslyn O. Silver)
)	
)	
)	
)	
)	

25 Gonzalez Plaintiffs respectfully request that this Court expedite consideration of
26 Defendants' Motion to Strike and Replace [Dkt. No. 140]. Defendants filed their
27 Motion to Strike and Replace on August 3, 2006 to correct a misfiled Stipulation of
28

1 Confidentiality. As discussed more fully below, the Stipulation of Confidentiality was
2 agreed to by all of the parties for the purpose of allowing Defendants to comply with
3 Plaintiffs' Request for Production by producing rejected voter registration forms.
4 Without an order from this Court, Defendants have refused to produce the requested
5 rejected voter registration forms and related documents which comprise critical
6 evidence in this case.
7

8 **A. Procedural Background**
9

10 On May 9, 2006, Gonzalez Plaintiffs filed this suit challenging the
11 constitutionality of the voting provisions of Arizona's Proposition 200. On July 10,
12 2006, Gonzalez Plaintiffs served their first Request for Production of Documents on
13 Defendants Helen Purcell and Karen Osborne *See* Notice of Service of First Set of
14 Request for Production of Documents to County Defendants Helen Purcell and Karen
15 Osborne from Plaintiffs Maria M. Gonzalez, *et al.* [Dkt. 100]. Gonzalez Plaintiffs
16 requested "All documents related to voter registration applications rejected for failure to
17 provide sufficient proof of citizenship, sorted by month."
18

19 Defendants' Counsel subsequently responded to the document request by
20 maintaining that they could not produce the requested documents without an order of
21 this Court.¹ The parties negotiated the terms of an agreement and ultimately agreed to a
22 stipulation. On July 28, 2006, Defendants objected to Gonzalez Plaintiffs' July 10th
23
24
25
26

27 ¹ Defendants' Counsel have made representations that A.R.S. § 16-168(F) requires their clients to have a Court
Order in place in order to produce unredacted rejected voter registration forms.

28 ³ Gonzalez Plaintiffs seek complete and unredacted voter registration forms in order to ensure that their statistical
analysis of the impact of Proposition 200 does not count the same voter twice.

1 Request for Production and produced redacted rejected voter registration forms that did
2 not contain information about voter registrants sought by Plaintiffs.³

3
4 Following the Parties' agreement upon the terms of a stipulation, Defendants'
5 Counsel filed a "Motion to Strike and Replace" that included a "Proposed Order to
6 Protect and Keep Confidential" [Dkt. No. 140] on August 3, 2006.⁴ This Court has yet
7 to rule on that motion. *See* Proposed Case Management Plan [Dkt. No. 300] at 37.

8 **B. Plaintiffs Need Voter Registration Documents to Prove Their Claims**

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10 As noted above, Gonzalez Plaintiffs need the unredacted rejected voter
11 registration forms and related documents to prove their claims. At the heart of the case
12 is the impact of Proposition 200 on voters and voter registration applicants, particularly
13 Latinos, naturalized citizens and low-income persons.

14
15 In order to analyze the impact of the voting provisions of Proposition 200,
16 including whether the law disproportionately affects certain populations, Gonzalez
17 Plaintiffs have requested complete copies of rejected voter registration forms and plan
18 to conduct a statistical analysis of the voter applicants who were rejected for registration
19 under the law. Without the information withheld by Defendants (including the voter
20 applicant's father's name, mother's maiden name and the state or country of birth),
21 Plaintiffs are unable to evaluate, for example, whether a voter applicant is a naturalized
22 citizen.
23
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27 ⁴ On July 31, 2006, Defendants' Counsel filed a Stipulation of Confidentiality [Dkt. No. 134] that had not been
28 agreed to by Plaintiffs. On August 1, 2006, Counsel for Gonzalez Plaintiffs contacted Defendants' Counsel
regarding the misfiled Stipulation, and requested that they file the stipulation that had been negotiated and agreed
to by all parties.

1 A review of tens of thousands of rejected voter registration forms⁵ will require
2 time, particularly here where complex constitutional and statutory standards apply.
3 Under the Proposed Case Management Plan [Dkt. No. 300], discovery will close on
4 January 4, 2008 and expert discovery will be completed by December 21, 2007. This
5 schedule leaves little time for Gonzalez Plaintiffs and their experts to analyze the data
6 contained in the thousands of rejected voter registration forms and related documents.
7

8 Accordingly, for the benefit of this Court and all of the parties, Gonzalez
9 Plaintiffs respectfully suggest that Defendants' Motion to Strike and Replace be
10 considered on an expedited basis.
11

12 **C. The Stipulation Allows the Counties to Comply with State Law**

13 Arizona law allows for the access and reproduction of information contained in
14 voter registration record under limited circumstances:
15

16 voter records "shall not be accessible or reproduced by any
17 person other than the voter, by an authorized government
18 official in the scope of the official's duties, for signature
19 verification on petitions and candidate filings, for election
20 purposes and for news gathering purposes by a person engaged
21 in newspaper, radio, television or reportorial work, or connected
22 with or employed by a newspaper, radio, or television station
23 *or pursuant to a court order.*

24 A.R.S. § 16-168(F). (emphasis added).

25 Defendants have maintained throughout this suit that without a court order they
26 are not permitted to produce unredacted rejected voter registration forms and related
27 documents. By entering the Order to Protect and Keep Confidential Information

28 ⁵ According to the Proposed Case Management Plan, more than 29,000 voter registration forms have been rejected for lack of proof of citizenship. *See* Dkt. No. 300 at 8.

1 Obtained from the Voter Registration Forms contained in Defendants' Motion to Strike
2 and Replace, the Court will provide Defendants the protection they seek.

3 WHEREFORE, Gonzalez Plaintiffs respectfully request that this Court expedite
4 consideration of Defendants' Motion to Strike and Replace [Dkt. No. 140].
5

6 DATED this 10th day of August, 2007.

Respectfully submitted,

7 By: s/Nina Perales
8 Nina Perales

9 Counsel for Plaintiffs
10 Gonzalez, *et al.*

11
12 CERTIFICATE OF SERVICE

13 I hereby certify that on the 10th day of August, 2007, I caused the foregoing
14 document to be electronically transmitted to the Clerk's Office using the CM/ECF
15 System for filing and transmittal of a Notice of Electronic Filing to CM/ECF registrants.

16 COPY of the foregoing mailed with Notice
17 of Electronic Filing this 10th day of August, 2007 to:

18 The Honorable Roslyn O. Silver
19 United States District Court
20 Sandra Day O'Connor U.S. Courthouse, Suite 624
21 401 West Washington Street, SPC 59
Phoenix, AZ 85003-2158

22 s/Nina Perales
23 Nina Perales
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