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9  
10 **IN THE UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF ARIZONA**

12 Maria M. Gonzalez, et al.,  
13 Plaintiffs,

14 v.

15 State of Arizona, et al.,  
16 Defendants.

No. CV06-1268 PHX ROS (Lead)  
No. CV06-1362 PCT JAT (Cons)

No. CV06-1575 PCT EHC (Cons)

**MOTION TO TRANSFER AND TO  
CONSOLIDATE**

(Assigned to the Honorable Roslyn O.  
Silver)

18 The Navajo Nation, a federally recognized  
19 Indian Tribe, and Agnes Laughter,

20 Plaintiffs,

21 v.

22 Jan Brewer, individually and in her official  
23 capacity as Secretary of State of the State of  
24 Arizona, et al.,

25 Defendants.

26 Pursuant to Fed. R. Civ. P. 42 and LRCiv. 42.1, the Secretary of State and the  
27 State of Arizona (collectively, the “State”), through counsel, move to transfer the action  
28 pending before Judge Carroll entitled *The Navajo Nation, et al. v. Jan Brewer, et al.*, No.

1 CV06-1575 PCT EHC, to this Court. The State also moves to consolidate that action  
2 with the two related matters already consolidated and before this Court: (1) *Gonzalez, et*  
3 *al., v. State of Arizona, et al.*, No. CV06-1268 PHX ROS (Lead); and (2) *Inter Tribal*  
4 *Council of Arizona, Inc., et al., v. Jan Brewer*, No. CV06-1362 PCT JAT (Cons).

5 Consolidation may be appropriate if two or more cases are pending before  
6 different Judges and a party believes that they arise from substantially the same  
7 transaction, involve substantially the same parties, would entail substantial duplication if  
8 heard by different Judges, or call for determination of substantially the same questions  
9 of law. *See* LRCiv 42.1(a). Like the consolidated actions before this Court, the matter  
10 assigned to Judge Carroll challenges the constitutionality of Arizona's requirement that  
11 voters present identification at the polls, adopted by the voters in 2004 as part of  
12 Proposition 200.

13 All three cases allege that the identification at the polls requirement constitutes a  
14 poll tax, that it unreasonably burdens the right to vote, and that it violates the federal  
15 Civil Rights Act and Voting Rights Act. The Secretary of State is named as a defendant  
16 in all three actions and the relevant local election officials from the counties in Arizona  
17 also are named. Indeed, the three counties named in the lawsuit before Judge Carroll  
18 (Apache, Coconino and Navajo) are all defendants in the consolidated lawsuit already  
19 before this Court.

20 There are minor variations between the Navajo Nation and consolidated lawsuits,  
21 but they do not merit separate actions. For example, the new action before Judge Carroll  
22 seeks relief only with regard to the State's identification at the polls requirement, and  
23 only on the Navajo Reservation. The cases already pending before this Court seek  
24 statewide relief and challenge both the identification at the polls requirement and the  
25 portion of Proposition 200 that requires evidence of citizenship when registering to vote.

26 Although the Navajo Nation's lawsuit takes a more narrow focus, the others will  
27 be addressing the same legal issues across the State, including all tribal lands. The  
28 Navajo Nation Plaintiffs have asked for a preliminary injunction, as have the Gonzalez

1 Plaintiffs. A preliminary injunction motion from the Inter Tribal Council Plaintiffs also  
2 is expected on a schedule to be proposed on or before July 5. This Court has already  
3 had briefing and oral argument on Proposition 200, and is familiar with the State's law.

4 For the above reasons, the State respectfully requests that the Court transfer the  
5 action before Judge Carroll to this Court, and consolidate the action with the  
6 Gonzales/Inter Tribal Council consolidated cases.

7 DATED this 30<sup>th</sup> day of June, 2006.

8  
9 TERRY GODDARD  
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15 Arizona Secretary of State

16 COPY of the foregoing filed electronically  
17 this 30<sup>th</sup> day of June, 2006.

18 COPY of the foregoing mailed with Notice of  
19 Electronic Filing this 30<sup>th</sup> day of June, 2006 to:

20 The Honorable Roslyn O. Silver  
21 United States District Court  
22 Sandra Day O'Connor U.S. Courthouse, Suite 624  
23 401 West Washington Street, SPC 59  
24 Phoenix, AZ 85003-2158

25 COPY of the foregoing filed electronically with Notice of  
26 Motion to Transfer and to Consolidate in case No. CV06-  
27 1575 PCT EHC.

28 By: s/Peter A. Silverman

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