

1 TERRY GODDARD
Attorney General
2 Firm Bar No. 14000
3 Mary O’Grady, No. 011434
Solicitor General
4 Peter A. Silverman, No. 020679
Assistant Attorney General
5 1275 West Washington Street
6 Phoenix, Arizona 85007-1298
Tel: (602) 542-8305
7 Fax: (602) 542-8308
Attorneys for the Arizona Secretary of State
8

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

12 The Navajo Nation, a federally recognized
Indian tribe, and Agnes Laughter,
13
14 Plaintiffs,

15 v.

16 Jan Brewer, et al.,

17 Defendants.

No. CV06-1575 PHX EHC

**ANSWER BY THE ARIZONA
SECRETARY OF STATE**

(Assigned to the Honorable Earl H.
Carroll)

18 The Arizona Secretary of State (the “Secretary”), through counsel, answers the
19 allegations in the Verified Complaint (the “Complaint”) by the Navajo Nation and
20 Agnes Laughter (collectively, the “Plaintiffs”) as follows:

21 **PARTIES**

22 1. Answering the allegations in paragraph 1, the Secretary admits upon
23 information and belief that the Navajo Nation is a recognized Indian tribe. The
24 Secretary lacks sufficient information to form a belief as to the truth of the remaining
25 allegations and, therefore, denies the same.

26 2. Answering paragraph 2, the Secretary denies that funds must be expended
27 to obtain identification to vote in elections. The Secretary lacks sufficient information to
28 form a belief as to the truth of the remaining allegations and, therefore, denies the same.

1 14. The Secretary lacks sufficient information to form a belief as to the truth
2 of the allegations in paragraph 22 and, therefore, denies the same.

3 15. The Secretary denies the allegations in paragraph 23.

4 16. The Secretary admits the allegations in paragraph 24.

5 17. Answering paragraphs 25 and 26, the Secretary admits that the Complaint
6 describes statements that are attributed to Randy Pullman and Governor Napolitano, and
7 states that the statements speak for themselves.

8 18. Answering paragraph 27, the Secretary admits that initiatives take effect
9 upon a proclamation by the Governor.

10 19. The Secretary admits the allegations in paragraph 28.

11 20. Answering paragraphs 29 through 31, the Secretary admits that
12 Proposition 200 requires identification to vote at the polls, and states that the language of
13 Proposition 200 speaks for itself.

14 21. Answering paragraphs 32 and 33, the Secretary admits that the Secretary
15 of State adopted a Procedure for Proof of Identification at the Polls (the “Procedure”)
16 which Governor Napolitano approved.

17 22. Answering paragraph 34, the Secretary admits that the Procedure sets forth
18 forms of identification to receive a ballot at the polls, but denies that the allegations
19 completely and accurately describe the Procedure. The Secretary states that the
20 Procedure speaks for itself.

21 23. Answering paragraphs 35 and 36, the Secretary admits that the Procedure
22 addresses regular and provisional ballots, but denies that the allegations completely and
23 accurately describe the Procedure. The Secretary states that the Procedure speaks for
24 itself.

25 24. The Secretary admits the allegations in paragraph 37.

26 25. Answering paragraph 38, the Secretary admits that Proposition 200 is not
27 applied to early ballots, and states that Proposition 200 and the statutes that apply to
28 early balloting speak for themselves.

1 of the allegations in paragraphs 85 through 87 and, therefore, denies the same.

2 50. Answering paragraphs 88, the Secretary states that the census data
3 referenced by Plaintiffs speaks for itself.

4 51. The Secretary lacks sufficient information to form a belief as to the truth
5 of the allegations in paragraph 89 and, therefore, denies the same.

6 52. The Secretary admits, upon information and belief, the allegations in
7 paragraph 90.

8 53. The Secretary lacks sufficient information to form a belief as to the truth
9 of the allegations in paragraphs 91 and 92 and, therefore, denies the same.

10 54. Answering paragraph 93, the Secretary states that the census data
11 referenced by Plaintiffs speaks for itself.

12 55. Answering paragraphs 94 through 98, the Secretary states that the census
13 data referenced by Plaintiffs speaks for itself. The Secretary lacks sufficient information
14 to form a belief as to the truth of remaining allegations and, therefore, denies the same.

15 56. The Secretary denies the allegations in paragraphs 99 and 100.

16 57. The Secretary lacks sufficient information to form a belief as to the truth
17 of the allegations in paragraph 101 and, therefore, denies the same.

18 **FIRST CLAIM FOR RELIEF**

19 (Mandamus Action)

20 58. Answering paragraph 102, the Secretary incorporates by reference her
21 responses to paragraphs 1 through 101.

22 59. The Secretary denies the allegations in paragraph 103.

23 60. Paragraph 104 states a legal conclusion, to which no response is necessary.

24 61. The Secretary denies the allegations in paragraphs 105 and 106.

25 **SECOND CLAIM FOR RELIEF**

26 (Equal Protection)

27 62. Answering paragraph 107, the Secretary incorporates by reference her
28 responses to paragraphs 1 through 106. Plaintiffs' allegations regarding the Equal

1 Protection Clause of the Fourteenth Amendment state a legal conclusion to which no
2 response is necessary.

3 63. The Secretary denies the allegation in paragraph 108.

4 64. Answering the allegations in paragraph 109, the Secretary admits that
5 differences exist between voting by mail and voting at the polls, but denies that any
6 differences violate the Equal Protection Clause of the United States Constitution.

7 65. The Secretary denies the allegations in paragraph 110.

8 66. The Secretary lacks sufficient information to form a belief as to the
9 allegations in paragraph 111 and, therefore, denies same.

10 67. The Secretary denies the allegations in paragraphs 112 and 113.

11 **THIRD CLAIM FOR RELIEF**

12 (Equal Protection as Applied on Navajo Reservation)

13 68. Answering paragraph 114, the Secretary incorporates by reference her
14 responses to paragraphs 1 through 113.

15 69. Answering paragraph 115, the Secretary admits that the Secretary of
16 State's office is one of several entities and individuals that contributed to the drafting of
17 the procedures for identification at the polls.

18 70. The Secretary denies the allegation in paragraph 116.

19 71. The Secretary lacks sufficient information to form a belief as to the truth
20 of the allegations in paragraph 117 and, therefore, denies same.

21 72. The Secretary denies the allegations in paragraphs 118 and 119.

22 **FOURTH CLAIM FOR RELIEF**

23 (Poll Tax)

24 73. Answering paragraph 120, the Secretary incorporates by reference her
25 responses to paragraphs 1 through 119.

26 74. Answering paragraph 121, the Secretary admits that Arizona law requires
27 identification at the polls, and states that the language of the statutes speaks for itself.

28 75. The Secretary denies, upon information and belief, the allegations in

1 paragraph 122.

2 76. The Secretary denies the allegations in paragraphs 123 and 124.

3 **FIFTH CLAIM FOR RELIEF**

4 (Civil Rights Act)

5 77. Answering the allegations in paragraph 125, the Secretary incorporates by
6 reference her responses to paragraphs 1 through 124.

7 78. The Secretary denies the allegations in paragraphs 126 through 129.

8 **SIXTH CLAIM FOR RELIEF**

9 (Section Two of the Voting Rights Act)

10 79. Answering the allegations in paragraph 130, the Secretary incorporates by
11 reference her responses to paragraphs 1 through 129.

12 80. The Secretary admits that paragraph 131 quotes language from Section 2
13 of the Voting Rights Act of 1965, which speaks for itself.

14 81. On information and belief, the Secretary denies the allegations in
15 paragraph 132.

16 82. The Secretary lacks sufficient information as to the truth of the allegations
17 in paragraphs 133 and 134 and, therefore, denies same.

18 83. The Secretary denies the allegations in paragraph 135.

19 **SEVENTH CLAIM FOR RELIEF**

20 (Preliminary and Permanent Injunction)

21 84. Answering the allegations in paragraph 136, the Secretary incorporates by
22 reference her responses to paragraphs 1 through 135.

23 **AFFIRMATIVE DEFENSES**

24 85. The Secretary denies any and all allegations in the Complaint that are not
25 specifically admitted herein.

26 86. The Secretary asserts upon information and belief that some or all of
27 Plaintiffs' claims may be barred by laches.

28 87. Plaintiffs fail to state one or more claims upon which relief may be

1 granted.

2 88. Upon information and belief, Plaintiffs may lack standing to assert claims
3 in the Complaint.

4 89. The Secretary reserves the right to amend this Answer to assert additional
5 claims or defenses as permitted.

6 WHEREFORE, having answered the Complaint, the Secretary respectfully
7 requests that the Court dismiss all claims by Plaintiffs with prejudice and direct that
8 Plaintiffs take nothing thereby, and that the Court award the Secretary such further relief
9 as is just and proper.

10 DATED this 27th day of July, 2006.

11 TERRY GODDARD
12 Attorney General

13 s/Peter A. Silverman
14 Mary O'Grady, Solicitor General
15 Peter A. Silverman, Asst. Attorney General
Attorneys for the Secretary of State

16 COPY of the foregoing filed electronically
17 this 27th day of July, 2006.

18 COPY of the foregoing also mailed with Notice of
19 Electronic Filing this 27th day of July, 2006 to:

20 The Honorable Earl H. Carroll
21 United States District Court
22 Sandra Day O'Connor U.S. Courthouse, Suite 521
23 401 West Washington Street, SPC 48
Phoenix, AZ 85003-2151

24 By: s/Peter A. Silverman

25 477725

26

27

28