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6 Attorneys for Defendants Kelly Dastrup and Laurette Justman

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF ARIZONA**

9 THE NAVAJO NATION, a federally)
10 recognized Indian tribe, and AGNES)
LAUGHTER,)
11)
Plaintiffs,)
12)
v.)
13)
14 JAN BREWER, individually and in her,)
official capacity as Secretary of State of the)
15 State of Arizona; PATTY HANSEN,)
16 individually and in her official capacity as)
Coconino County Election Administrator,)
17 PENNY PEW, individually and in her official)
capacity as Apache County Elections)
18 Director, LENORA JOHNSON, individually)
and in her official capacity as Apache County)
19 Recorder, KELLY DASTRUP, individually and)
20 in her official capacity as Navajo County)
Elections Director, LAURETTE JUSTMAN,)
21 individually and in her official capacity as)
22 Navajo County Recorder,)
Defendants.)
23)
24)

No. CV06-1575-PCT-EHC

**SEPARATE ANSWER OF
DEFENDANTS DASTRUP
AND JUSTMAN**

25
26 Defendants Kelly Dastrup and Laurette Justman (the "Navajo County
27 Defendants") answer the Complaint as follows:
28

1. Answering the allegations of the Complaint which specifically concern the Navajo County Defendants:

A. Admit Dastrup is the Elections Director of Navajo County and is in charge of conducting elections as alleged in ¶ 7.

B. Admit Justman is the Navajo County Recorder and is responsible for various aspects of elections as alleged in ¶ 10.

C. Admit Navajo County must provide official language assistance to Navajo Nation members under Section 203 of the Voting Rights Act and that the Navajo language is historically an unwritten language as alleged in ¶ 47.

D. Admit that because of past discrimination in the State of Arizona, any voting change in Navajo County must be precleared by the U. S. Department of Justice before it is implemented as alleged in ¶ 56.

E. Admit Navajo County is subject to Sections 4(f)(4) and 203(c) of the Voting Rights Act and that a First Amended Consent Decree was entered as alleged in ¶ 57.

F. Admit Navajo County is required to provide assistance to Navajo language speakers at the polls under Section 203 of the Voting Rights Act as alleged in ¶ 90.

2. Affirmatively allege that, as local election officials, they are required to comply with the statutory requirements of Proposition 200 and the related "Procedures for Proof of Identification at the Polls" adopted by the Arizona Secretary of State. They have no discretion in this regard. Hence, the Navajo County Defendants are simply "interested bystanders" in regard to the allegations of the Complaint

1 and should be designated as nominal parties. They take no position in regard to
2 the merits of the Complaint and will abide by whatever relief the Court may grant
3 and whatever order or judgment the Court may enter.

4
5 3. Deny they are “wrongfully” doing anything as alleged in ¶ 103. As is stated in ¶ 2
6 above, the Navajo County Defendants have no discretion in regard to the
7 implementation of the statutory requirements of Proposition 200 and the
8 Secretary of State’s related “Procedures.”

9
10 4. Admit the allegations of the following paragraphs: ¶¶ 4-17, 24, 27-30, 32-39, 42-
11 43, 47, 54-57, 65, 78, 115, 121, 131.

12 5. The following paragraphs concern matters as to which the Navajo County
13 Defendants lack sufficient information to either admit or deny the allegations
14 thereof: ¶¶ 1-3, 18-23, 25-26, 31, 40-41, 44-46, 48-53, 58-64, 66-77, 79-89, 91-
15 102, 104-114, 116-120, 122-130, 132-136.

16
17 WHEREFORE, the Navajo County Defendants respectfully urge the Court to
18 designate these Defendants as nominal parties and to deny Plaintiffs any award of
19 costs or attorney fees as against these Defendants. (Plaintiffs have indicated that they
20 waive any claim of costs or attorney fees against these Defendants.) The Navajo
21 County Defendants reiterate that they take no position in regard to the merits of the
22 Complaint and will abide by whatever relief the Court may grant and whatever order or
23 judgment the Court may enter.

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25 / / /

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1 DATED July 10, 2006.

2 MELVIN R. BOWERS, JR.
3 NAVAJO COUNTY ATTORNEY

4 /s/ Lance B. Payette

5 By _____

6 LANCE B. PAYETTE

7 Chief Deputy County Attorney

Attorneys for Defendants Dastrup and Justman

8 **CERTIFICATE OF SERVICE**

9 I hereby certify that on July 10, 2006 I electronically
10 transmitted this document to the Clerk's Office using
the CM/ECF System for filing.

11 /s/ Lance B. Payette
12 _____

13
14 COPY of the foregoing mailed
July 10, 2006 to:

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7 /s/ Lance B. Payette

8 By: _____
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