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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.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF
[Civil Rights]

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 **PRELIMINARY STATEMENT**

- 28 1. This action challenges the voter registration and identification provisions of Proposition 200, an initiative measure adopted by Arizona voters on November 2, 2004, and it seeks declaratory and injunctive relief to halt their implementation and enforcement.
2. Plaintiffs have no plain, speedy, or adequate remedy at law other than the relief requested in this complaint. Unless enjoined by this Court, Arizona's voter registration and identification requirements will continue to impermissibly burden voting and voter registration across the state.

JURISDICTION AND VENUE

3. Jurisdiction is based upon 28 U.S.C. 1343a(3) & (4) and upon 28 U.S.C. 1331 for causes of action arising from 42 U.S.C. 1971 and 1973, 42 U.S.C. 1973gg-4, and 42

1 U.S.C. 2000d. Jurisdiction for Plaintiffs' claim for declaratory relief is based upon 28
2 U.S.C. 2201 and 2202. Jurisdiction for Plaintiffs' constitutional and federal statutory
3 claims is also based upon 42 U.S.C. 1983. Jurisdiction for Plaintiffs' claim for
4 attorneys fees is based on 42 U.S.C. 1973l(e) and 1988. Venue is proper in this Court
5 under 28 U.S.C. 1391(b).

6 **REQUEST FOR THREE-JUDGE PANEL**

- 7 4. Plaintiffs request that their Section 5 enforcement claims be heard and determined by
8 a court of three judges in accordance with 42 U.S.C. 1973c and the provisions of 28
9 U.S.C. 2284.

10 **PARTIES**

- 11 5. Plaintiff MARIA GONZALEZ is a resident of Yuma County, Arizona. Ms. Gonzalez
12 is a U.S. citizen and qualified voter registration applicant but was denied voter
13 registration by the Yuma County Recorder for failure to provide the documentary
14 proof of U.S. citizenship required by Proposition 200. Plaintiff MARIA GONZALEZ
15 is Latina.
- 16 6. Plaintiff JESUS M. GONZALEZ is a resident of Yuma County, Arizona. Mr. Gonzalez
17 is a U.S. citizen and qualified voter registration applicant but was denied voter
18 registration by the Yuma County Recorder for failure to provide the documentary
19 proof of U.S. citizenship required by Proposition 200. Plaintiff JESUS M.
20 GONZALEZ is Latino.
- 21 7. Plaintiff BERNIE ABEYTIA is a resident and registered voter of Maricopa County,
22 Arizona. Mr. ABEYTIA is a Vietnam veteran and the State Commander of the American
23 GI Forum of Arizona, a not-for-profit organization dedicated to assisting veterans.
24 Although Mr. ABEYTIA is a qualified voter, he cannot vote in person at the polls
25 because he lacks the identification required by Proposition 200. Mr. ABEYTIA would
26 have to pay a fee in order to acquire the identification required by Proposition 200.

1 Plaintiff BERNIE ABEYTIA is Latino.

2 8. Plaintiff LUCIANO VALENCIA is a resident of Pima County, Arizona. Mr. Valencia
3 is a U.S. citizen and a qualified voter registration applicant but was denied voter
4 registration by the Pima County Recorder because, after completing a federal mail
5 voter registration application, he did not provide the additional proof of U.S.
6 citizenship required by Proposition 200. Plaintiff LUCIANO VALENCIA is Latino.

7 9. Plaintiff DEBBIE LOPEZ is a resident and registered voter of Maricopa County.
8 Plaintiff DEBBIE LOPEZ formerly worked as the Arizona State Director of a national
9 non-profit whose mission was to empower Latino citizens in the political process and
10 whose activities focused on voter registration and turnout. Plaintiff DEBBIE LOPEZ
11 also volunteers to register voters and attempted to register voters in a community-
12 based voter registration drive in Maricopa County as recently as April 10, 2006.
13 Plaintiff DEBBIE LOPEZ is Latina and a member of Plaintiff ARIZONA HISPANIC
14 COMMUNITY FORUM.

15 10. Plaintiff SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT (SVREP)
16 is a non-profit and non-partisan organization committed to improving the participation
17 of Latino and other minority communities across the United States in the democratic
18 process, through voter registration, voter education and voter participation activities.
19 Since its founding in 1974, SVREP has conducted more than 2,200 voter registration
20 campaigns in 15 states, including Arizona. SVREP conducts its voter registration
21 activities at community-based sites such as school campuses, malls and fairs. Because
22 Proposition 200 has limited the number of persons that SVREP can register to vote
23 and impaired the ability of SVREP to conduct voter registration and turnout efforts,
24 SVREP has been injured by Proposition 200.

25 11. Plaintiff VALLE DEL SOL is a non-profit and non-partisan organization founded in
26 1960. Valle del Sol has grown to be one of Arizona's largest non-profit, community-

1 based organizations helping men, women, children, families, and the elderly each year
2 through social services and leadership development programs. The mission of VALLE
3 DEL SOL is to inspire positive change by investing in human services, strengthening
4 self-sufficiency for families and building the next generation of Latino leaders. In
5 order to fulfill its organizational goals, VALLE DEL SOL has conducted voter
6 registration activities in the past and plans to conduct further voter registration
7 activities in the future. Because Proposition 200 has limited the number of persons
8 that VALLE DEL SOL can register to vote and impaired the ability of VALLE DEL
9 SOL to conduct voter registration efforts, VALLE DEL SOL has been injured by
10 Proposition 200.

11 12. Plaintiff FRIENDLY HOUSE is a social service agency that provides comprehensive
12 family services to over 40,000 families, youth and children a year. Established in
13 1920, FRIENDLY HOUSE was part of a new national settlement house project of the
14 federal government to assist both new immigrants to the United States and the poor.
15 Founded by the Phoenix Americanization Committee, the goal was to teach English and
16 citizenship to foreign-born clients. Today, in addition to offering services focused on
17 youth education, employment and training, social services and adult education,
18 FRIENDLY HOUSE provides low cost, on-site immigration services, including
19 citizenship applications, to the immigrant community in greater Maricopa County and
20 also provides free outreach information through workshops and immigration
21 presentations to various community groups within the targeted areas. Among the
22 organizational goals of FRIENDLY HOUSE is to promote and ensure the ability of
23 immigrants to naturalize and to participate as U.S. citizens in civic life. FRIENDLY
24 HOUSE also fulfills its organizational mission by conducting community-based voter
25 registration. Because Proposition 200 has limited the number of persons that
26 FRIENDLY HOUSE can register to vote and impaired the ability of FRIENDLY
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1 HOUSE to conduct voter registration efforts, FRIENDLY HOUSE has been injured by
2 Proposition 200.

3 13. Plaintiff CHICANOS POR LA CAUSA, INC. (CPLC) is a statewide community
4 development corporation (CDC), committed to building stronger, healthier
5 communities as a leading advocate, coalition builder and direct service provider.
6 CPLC promotes positive change and self-sufficiency to enhance the quality of life for
7 the benefit of those it serves. In order to fulfill its organizational goals, CPLC
8 conducts voter registration drives. Because Proposition 200 has limited the number
9 of persons that CPLC can register to vote and impaired the ability of CPLC to conduct
10 voter registration efforts, CPLC has been injured by Proposition 200.

11 14. Plaintiff ARIZONA HISPANIC COMMUNITY FORUM (AHCF) is a membership
12 advocacy organization that collaborates with other organizations on civil and human
13 rights issues. The mission of the AHCF is to empower Hispanic communities: to work
14 towards active participation with policy-making bodies at all levels of the public and
15 private sectors; to become involved in local state and national issues impacting the
16 Hispanic community; to educate, promote and preserve Hispanic history, language,
17 cultures, customs, and contributions; to increase opportunities and improve the quality
18 of life for Hispanics; to defend, preserve and protect rights of Hispanics under the law;
19 and to educate and ensure that the public and private sector provide equal access and
20 fair treatment for Hispanics. In order to fulfill its organizational goals, AHCF
21 conducts voter registration. Because Proposition 200 has limited the number of
22 persons that AHCF can register to vote and impaired the ability of AHCF to conduct
23 voter registration and turnout efforts, AHCF has been injured by Proposition 200.

24 15. Defendant STATE OF ARIZONA is a state of the United States of America. Defendant
25 STATE OF ARIZONA is subject to the requirements of federal law, including the
26 National Voter Registration Act of 1993 and Section 5 of the Voting Rights Act of
27

1 1965.

2 16. Defendant JAN BREWER is sued in her official capacity as Arizona Secretary of State.
3 Defendant BREWER is the chief election officer of Defendant STATE OF ARIZONA.
4 In that capacity, she is responsible for implementation of the provisions of
5 Proposition 200 relating to voting.

6 17. Defendant HELEN PURCELL is the Maricopa County Recorder. She is sued in her
7 official capacity. As the County Recorder, Ms. PURCELL's responsibilities include
8 voter registration for the county as well as the conduct of elections in the county.

9 18. Defendant KAREN OSBORNE is the Maricopa County Director of Elections. She is
10 sued in her official capacity. As Director of Elections, Ms. OSBORNE is responsible
11 for administering, preparing, conducting and tallying federal, state and county elections
12 in the county.

13 19. Defendant LeNORA JOHNSON is the Apache County Recorder. She is sued in her
14 official capacity. As the County Recorder, Ms. JOHNSON's responsibilities include
15 voter registration for the county as well as the conduct of elections in the county.

16 20. Defendant PENNY L. PEW is the Apache County Director of Elections. She is sued
17 in her official capacity. As Director of Elections, Ms. PEW is responsible for
18 administering, preparing, conducting and tallying federal, state and county elections
19 in the county.

20 21. Defendant CHRISTINE RHODES is the Cochise County Recorder. She is sued in her
21 official capacity. As the County Recorder, Ms. RHODES's responsibilities include
22 voter registration for the county as well as the conduct of elections in the county.

23 22. Defendant THOMAS SCHELLING is the Cochise County Director of Elections. He
24 is sued in his official capacity. As Director of Elections, Mr. SCHELLING is
25 responsible for administering, preparing, conducting and tallying federal, state and
26 county elections in the county.

1 23. Defendant CANDACE OWENS is the Coconino County Recorder. She is sued in her
2 official capacity. As the County Recorder, Ms. OWENS's responsibilities include
3 voter registration for the county as well as the conduct of elections in the county.

4 24. Defendant PATTY HANSEN is the Coconino County Director of Elections. She is
5 sued in her official capacity. As Director of Elections, Ms. HANSEN is responsible
6 for administering, preparing, conducting and tallying federal, state and county elections
7 in the county.

8 25. Defendant LINDA HAUGHT ORTEGA is the Gila County Recorder. She is sued in her
9 official capacity. As the County Recorder, Ms. ORTEGA's responsibilities include
10 voter registration for the county as well as the conduct of elections in the county.

11 26. Defendant DIXIE MUNDY is the Gila County Director of Elections. She is sued in her
12 official capacity. As Director of Elections, Ms. MUNDY is responsible for
13 administering, preparing, conducting and tallying federal, state and county elections
14 in the county.

15 27. Defendant WENDY JOHN is the Graham County Recorder. She is sued in her official
16 capacity. As the County Recorder, Ms. JOHN's responsibilities include voter
17 registration for the county as well as the conduct of elections in the county.

18 28. Defendant JUDY DICKERSON is the Graham County Director of Elections. She is
19 sued in her official capacity. As Director of Elections, Ms. DICKERSON is
20 responsible for administering, preparing, conducting and tallying federal, state and
21 county elections in the county.

22 29. Defendant BERTA MANUZ is the Greenlee County Recorder. She is sued in her
23 official capacity. As the County Recorder, Ms. MANUZ's responsibilities include
24 voter registration for the county as well as the conduct of elections in the county.

25 30. Defendant YVONNE PEARSON is the Greenlee County Director of Elections. She
26 is sued in her official capacity. As Director of Elections, Ms. Pearson is responsible
27

1 for administering, preparing, conducting and tallying federal, state and county elections
2 in the county.

3 31. Defendant SHELLY BAKER is the La Paz County Recorder. She is sued in her official
4 capacity. As the County Recorder, Ms. BAKER's responsibilities include voter
5 registration for the county as well as the conduct of elections in the county.

6 32. Defendant DONNA HALE is the La Paz County Director of Elections. She is sued in
7 her official capacity. As Director of Elections, Ms. HALE is responsible for
8 administering, preparing, conducting and tallying federal, state and county elections
9 in the county.

10 33. Defendant JOAN McCALL is the Mohave County Recorder. She is sued in her official
11 capacity. As the County Recorder, Ms. McCALL's responsibilities include voter
12 registration for the county as well as the conduct of elections in the county.

13 34. Defendant ALLEN TEMPERT is the Mohave County Director of Elections. He is sued
14 in his official capacity. As Director of Elections, Mr. TEMPERT is responsible for
15 administering, preparing, conducting and tallying federal, state and county elections
16 in the county.

17 35. Defendant LAURETTE JUSTMAN is the Navajo County Recorder. She is sued in her
18 official capacity. As the County Recorder, Ms. JUSTMAN's responsibilities include
19 voter registration for the county as well as the conduct of elections in the county.

20 36. Defendant KELLY DASTRUP is the Navajo County Director of Elections. She is sued
21 in her official capacity. As Director of Elections, Ms. DASTRUP is responsible for
22 administering, preparing, conducting and tallying federal, state and county elections
23 in the county.

24 37. Defendant F. ANN RODRIGUEZ is the Pima County Recorder. She is sued in her
25 official capacity. As the County Recorder, Ms. RODRIGUEZ's responsibilities
26 include voter registration for the county as well as the conduct of elections in the
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1 county.

2 38. Defendant BRAD NELSON is the Pima County Director of Elections. He is sued in
3 his official capacity. As Director of Elections, Mr. NELSON is responsible for
4 administering, preparing, conducting and tallying federal, state and county elections
5 in the county.

6 39. Defendant LAURA DEAN-LYTLE is the Pinal County Recorder. She is sued in her
7 official capacity. As the County Recorder, Ms. DEAN-LYTLE's responsibilities
8 include voter registration for the county as well as the conduct of elections in the
9 county.

10 40. Defendant GILBERTO HOYOS is the Pinal County Director of Elections. He is sued
11 in his official capacity. As Director of Elections, Mr. HOYOS is responsible for
12 administering, preparing, conducting and tallying federal, state and county elections
13 in the county.

14 41. Defendant SUZIE SAINZ is the Santa Cruz County Recorder. She is sued in her official
15 capacity. As the County Recorder, Ms. SAINZ's responsibilities include voter
16 registration for the county as well as the conduct of elections in the county.

17 42. Defendant MELINDA MEEK is the Santa Cruz County Director of Elections. She is
18 sued in her official capacity. As Director of Elections, Ms. MEEK is responsible for
19 administering, preparing, conducting and tallying federal, state and county elections
20 in the county.

21 43. Defendant ANN WAYMAN-TRUJILLO is the Yavapai County Recorder. She is sued
22 in her official capacity. As the County Recorder, Ms. WAYMAN-TRUJILLO's
23 responsibilities include voter registration for the county as well as the conduct of
24 elections in the county.

25 44. Defendant LYNN CONSTABILE is the Yavapai County Director of Elections. She is
26 sued in her official capacity. As Director of Elections, Ms. CONSTABILE is
27

1 responsible for administering, preparing, conducting and tallying federal, state and
2 county elections in the county.

3 45. Defendant SUSAN HIGHTOWER MARLER is the Yuma County Recorder. She is sued
4 in her official capacity. As the County Recorder, Ms. MARLER's responsibilities
5 include voter registration for the county as well as the conduct of elections in the
6 county.

7 46. Defendant PATTI MADRILL is the Yuma County Director of Elections. She is sued
8 in her official capacity. As Director of Elections, Ms. MADRILL is responsible for
9 administering, preparing, conducting and tallying federal, state and county elections
10 in the county.

11 47. All Defendants are recipients of federal financial assistance to conduct voter
12 registration and elections. At all times, all Defendants herein were acting under color
13 of law.

14 **STATEMENT OF FACTS**

15 **Proposition 200 Voting-Related Provisions**

16 48. Proposition 200 is an initiative statute that was submitted to the voters of Arizona at
17 the November 2, 2004 general election. Under the Arizona Constitution, Article IV,
18 Section 1, the people of Arizona have the power to enact initiative statutes. Initiative
19 statutes become law "when approved by a majority of the votes cast thereon and upon
20 proclamation of the Governor." ARIZ. CONST. art. IV, §§ 1. Proposition 200 was
21 approved by a majority of the votes cast on November 2, 2004 and the Governor issued
22 the required proclamation on December 13, 2004.

23 49. Proposition 200 amended a number of election statutes in order to impose new
24 restrictions on voter registration and voting.

25 **Proof of Citizenship for Voter Registration**

26 50. Section 3 of Proposition 200 amends Section 16-152 of the Arizona Revised Statutes
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28

1 in order to require that the Arizona voter registration application form include, "A
2 STATEMENT THAT THE APPLICANT SHALL SUBMIT EVIDENCE OF UNITED
3 STATES CITIZENSHIP WITH THE APPLICATION AND THAT THE REGISTRAR
4 SHALL REJECT THE APPLICATION IF NO EVIDENCE OF CITIZENSHIP IS
5 ATTACHED."

6 51. Section 4 of Proposition 200 amends Section 16-166 of the Arizona Revised Statutes
7 in order to add a new subsection F which provides in part that the "COUNTY
8 RECORDER SHALL REJECT ANY APPLICATION FOR REGISTRATION THAT IS
9 NOT ACCOMPANIED BY SATISFACTORY EVIDENCE OF UNITED STATES
10 CITIZENSHIP."

11 52. Proposition 200 further amends Section 16-166 to define the six identification
12 documents that are satisfactory evidence of U.S. citizenship: 1) an Arizona driver's
13 license issued after October 1, 1996, or a license issued by another state that verifies
14 U.S. citizenship prior to issuing licenses; 2) a U.S. birth certificate; 3) a U.S. passport;
15 4) U.S. naturalization documents; 5) another immigration document that proves
16 citizenship; 6) a Bureau of Indian Affairs card number.

17 53. Section 16-166 (F) (4) as amended by Proposition 200 requires that any voter
18 registration applicant who relies upon a naturalization certificate to prove his or her
19 U.S. citizenship may not submit a photocopy of the certificate but must present the
20 certificate in person to the County Recorder. The voter registration applicant who is
21 a naturalized citizen and who only provides the number of the naturalization certificate
22 on the voter registration application will not be added to the voter rolls until the
23 County Recorder is able to verify that number with the U.S. Immigration and
24 Naturalization Service.

25 Voter Identification for Casting a Ballot at the Polls

26 54. Section 5 of Proposition 200 amends Section 16-579 of the Arizona Revised Statutes
27
28

1 to provide that before receiving a ballot, every qualified elector "SHALL PRESENT
2 ONE FORM OF IDENTIFICATION THAT BEARS THE NAME, ADDRESS AND
3 PHOTOGRAPH OF THE ELECTOR OR TWO DIFFERENT FORMS OF
4 IDENTIFICATION THAT BEAR THE NAME AND ADDRESS OF THE ELECTOR."

5 55. The "Procedure for Proof of Identification at the Polls," issued by Defendant
6 BREWER on September 6, 2005, provides that acceptable forms of voter photo
7 identification include: a valid Arizona driver license; valid Arizona nonoperating
8 identification license; tribal enrollment card or other form of tribal identification; or
9 a valid United States federal, state, or local government issued identification. These
10 forms of identification are not acceptable for voting unless they bear the same address
11 for the voter as that listed in the county voter rolls.

12 56. The "Procedure for Proof of Identification at the Polls" further provides that
13 acceptable forms of voter non-photo identification includes: a utility bill of the
14 elector that is dated within ninety days of the date of the election; bank or credit union
15 statement that is dated within ninety days of the date of the election ; valid Arizona
16 Vehicle Registration; Indian census card; property tax statement of the elector's
17 residence; tribal enrollment card or other form of tribal identification; vehicle
18 insurance card; Recorder's Certificate; or valid United States federal, state, or local
19 government issued identification, including a voter registration card issued by the
20 county recorder. These forms of identification are not acceptable for voting unless
21 they bear the same address as that listed in the rolls for the voter.

22 57. The "Procedure for Proof of Identification at the Polls" provides that any voter at the
23 polling place who does not present satisfactory proof of identification will be provided
24 a provisional ballot. In order for the provisional ballot to be counted, the voter must
25 present satisfactory proof of identification to the County Recorder by 5:00 p.m. on
26 the fifth business day after a general election that includes an election for a federal
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1 office or 5:00 p.m. on the third business day after any other election.

2 Effect of the Voter Registration and Identification Requirements of Proposition 200

3 58. The official Arizona voter registration form, promulgated by Defendant BREWER in
4 March 2005, states that “A complete voter registration form must also contain proof
5 of citizenship or the form will be rejected.” Defendants no longer make available or
6 distribute the federal mail voter registration application prescribed by the U.S.
7 Elections Assistance Commission. Defendants do not provide a postage-paid envelope
8 with the Arizona voter registration application.

9 59. On March 6, 2006, the United States Election Assistance Commission (EAC) wrote
10 to Defendant BREWER in response to her request that the EAC “apply Arizona state
11 policy (derived from Proposition 200) to the Federal Mail Voter Registration Form.”
12 In its letter the EAC informed Defendant BREWER that “Arizona may not refuse to
13 register individuals to vote in a Federal election for failing to provide supplemental
14 proof of citizenship, if they have properly completed and timely submitted the Federal
15 Registration Form.

16 60. On March 13, 2006, Defendant BREWER responded to the EAC charging that the
17 EAC’s opinion was “completely inconsistent, unlawful, and without merit.” The letter
18 further stated that “After consulting with the Arizona Attorney General, I will instruct
19 Arizona’s county recorders to continue to administer and enforce the requirement that
20 all voters provide evidence of citizenship when registering to vote as specified in
21 A.R.S. § 16-166(F).”

22 61. On March 13, 2006, State Election Director Joseph Kanefield wrote to the State’s
23 county recorders informing them of Defendant BREWER’s “position that the proof
24 of citizenship requirement set forth in A.R.S. § 16-166(F) must continue to be
25 enforced for all newly registered voters and voters moving from one county to
26 another.”

1 62. On May 3, 2006, Plaintiff LUCIANO VALENCIA appeared in person at the Pima
2 County Recorder's Office and presented the clerk with a completed federal mail voter
3 registration form prescribed by the U.S. Election Assistance Commission. The clerk
4 did not accept the federal mail voter registration form and informed Mr. Valencia that
5 he could not be registered without documentary proof of citizenship because of the
6 requirements of Proposition 200.

7 63. Upon information and belief, all Defendant Arizona county recorders are complying
8 with Defendant BREWER's directive to them that they reject properly-completed
9 federal mail voter registration applications that are not accompanied by the
10 documentary proof of citizenship required by Proposition 200.

11 64. As a result of Proposition 200, naturalized citizens who seek to register to vote and
12 use their naturalization document as proof of U.S. citizenship are forced to present
13 their naturalization document in person at the office of the County Recorder.
14 Naturalized citizens may not provide a photocopy of the naturalization document to the
15 County Recorder.

16 65. On August 18, 2005, Plaintiffs MARIA GONZALEZ and JESUS GONZALEZ properly
17 completed voter registration applications and submitted their applications to the Yuma
18 County Recorder. As required, Plaintiffs MARIA GONZALEZ and JESUS
19 GONZALEZ provided the number of their certificate of naturalization on the voter
20 registration form.

21 66. Plaintiffs MARIA GONZALEZ and JESUS GONZALEZ subsequently received from
22 the Yuma County Recorder a notice informing them that they did not provide
23 satisfactory proof of citizenship and enclosing their original registration applications
24 with an indication that they must provide personal immigration information not
25 required by Proposition 200. To this day, Plaintiffs MARIA GONZALEZ and JESUS
26 GONZALEZ have not been added to the voter rolls in Yuma County.

1 67. Defendants STATE OF ARIZONA and BREWER did not state, in their submission to
2 the U.S. Department of Justice requesting Section 5 preclearance of Sections 3 and
3 4 of Proposition 200, that they would cease to use and accept the federal mail voter
4 registration form for registering voters for federal elections in Arizona.

5 68. As a result of the new proof of citizenship requirements imposed by Proposition 200,
6 Plaintiffs LOPEZ, SVREP, VALLE DEL SOL, FRIENDLY HOUSE, CPLC and AHCF are
7 impeded in their ability to conduct community-based voter registration.

8 69. In order to successfully register voters in the community, Plaintiffs LOPEZ, SVREP,
9 VALLE DEL SOL, FRIENDLY HOUSE, CPLC and AHCF must now carry with them a
10 photocopy machine or computer scanner and printer in order to make copies of
11 citizenship documents for all voter registration applicants who do not have a driver's
12 license or state identification card issued after 1996. Plaintiffs LOPEZ, SVREP,
13 VALLE DEL SOL, FRIENDLY HOUSE, CPLC and AHCF may no longer use the pre-paid
14 federal mail voter registration applications in their voter registration campaigns.
15 Plaintiffs LOPEZ, SVREP, VALLE DEL SOL, FRIENDLY HOUSE, CPLC and AHCF's
16 inability to bring photocopy equipment to malls, school campuses and community
17 gatherings has injured them by severely limiting their ability to register voters.

18 70. Latinos, among other ethnic groups, are less likely to possess the forms of
19 identification required under Proposition 200 to register to vote and cast a ballot. As
20 a result, significant numbers of Latinos attempting to register and turn out to vote are
21 denied the right to vote. In addition, because Latinos comprise a large proportion of
22 naturalized citizens in Arizona, the documentary proof of citizenship requirement
23 imposed by Proposition 200 on naturalized citizens has a disparate negative effect on
24 voter registration by Latinos.

25 71. Plaintiffs have provided written notice on three separate occasions to Defendant
26 BREWER informing her that Arizona is not in compliance with the National Voter
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1 Registration Act (NVRA). On November 30, 2004, Plaintiff FRIENDLY HOUSE filed
2 a written complaint in the U.S. Federal Court for the District of Arizona naming
3 Defendant BREWER and alleging that Proposition 200's documentary proof of
4 citizenship requirement was pre-empted by the NVRA.

5 72. On March 27, 2006, Plaintiffs sent a letter to Defendant BREWER stating that the
6 implementation of Proposition 200's documentary proof of citizenship requirement
7 had placed Arizona in violation of the NVRA. Plaintiffs sent a second letter to
8 Defendant BREWER on April 17, 2006 reiterating that Arizona was not in compliance
9 with the NVRA.

10 73. On April 20, 2006, Joseph Kanefield, Arizona State Election Director, wrote to the
11 State's County Recorders informing them that the Arizona Secretary of State's office
12 had received notices of intent to file suit and that "it is very likely that the county
13 recorders will be named in these suits when they are filed."

14 74. Early voting for the federal and state primary election in Arizona begins August 10,
15 2006. Defendants BREWER and STATE OF ARIZONA received Plaintiff's April 17,
16 2006 letter on April 18, 2006 and it has been more than twenty days since their receipt
17 of the letter.

18 75. Plaintiff BERNIE ABEYTIA seeks to cast his ballot at the polls in the next election.
19 Although he is a registered and qualified voter in Maricopa County, Mr. Abeytia does
20 not possess the identification documents required by Proposition 200 for voting at the
21 polls. As a result of Proposition 200's new proof of identification requirements, Mr.
22 Abeytia will be denied the opportunity to vote in person on Election Day unless he
23 pays a fee for identification documents specified by Proposition 200.

24 76. Organizational plaintiffs have also expended scarce and valuable organizational
25 resources informing voters of the new voting identification requirements in an attempt
26 to prevent Proposition 200 from blocking qualified voters from voting. The
27

1 organizational plaintiffs have been injured by the voter identification provisions of
2 Proposition 200 because their resources are drained by the effort to assist voters in
3 navigating the new identification requirements. Without the voter identification
4 provisions of Proposition 200, the organizational plaintiffs would be able to spend
5 their limited resources reaching more voters with their voter registration and turnout
6 efforts.

7 77. Upon information and belief, Defendant Arizona county recorders are implementing
8 the documentary proof of citizenship and identification requirements set out in
9 Sections 3, 4 and 5 of Proposition 200.

10 **FIRST CAUSE OF ACTION**

11 (Supremacy Clause of the U.S. Constitution)

12 78. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

13 79. Defendants' implementation of the documentary proof of citizenship requirements of
14 Sections 3 and 4 of Proposition 200 violates the Supremacy Clause, Article VI,
15 paragraph 2 of the U.S. Constitution.

16 80. Accordingly, Plaintiffs are entitled to a declaration that Sections 3 and 4 of
17 Proposition 200 are unconstitutional and to an order temporarily and permanently
18 enjoining their enforcement.

19 **SECOND CAUSE OF ACTION**

20 (First Amendment to the U.S. Constitution)

21 81. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

22
23 82. By preventing Plaintiffs from using federal mail voter registration application forms,
24 and forcing them to comply with Proposition 200's documentary proof of citizenship
25 in order to register voters, Defendants deprive Plaintiffs of their free speech and
26 associational right to conduct voter registration.

1 83. Accordingly, Plaintiffs are entitled to a declaration that Sections 3 and 4 of
2 Proposition 200 are unconstitutional and to an order enjoining their enforcement.

3 **THIRD CAUSE OF ACTION**

4 (Twenty-Fourth Amendment to the U.S. Constitution)

5 84. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

6 85. By requiring that voters pay a fee in order to acquire specific identification documents
7 to prove either U.S. citizenship or identity, Proposition 200 imposes the substantive
8 equivalent of a poll tax on Arizona voters.

9 86. Accordingly, Plaintiffs are entitled to a declaration that Sections 3, 4 and 5 of
10 Proposition 200 are unconstitutional and to an order temporarily and permanently
11 enjoining their enforcement.

12 **FOURTH CAUSE OF ACTION**

13 (Equal Protection Clause of the Fourteenth Amendment to the U.S. States Constitution)

14 87. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

15 88. By requiring that voters pay a fee in order to acquire specific identification documents
16 to prove either U.S. citizenship or identity, Sections 3, 4 and 5 of Proposition 200
17 impermissibly burden the fundamental right to vote in violation of the Equal
18 Protection Clause of the Fourteenth Amendment to the United States Constitution.

19 89. In addition, by placing greater burdens of registration on naturalized voters, Sections
20 3 and 4 of Proposition 200 impermissibly burden the fundamental right to vote in
21 violation of the Equal Protection Clause of the Fourteenth Amendment to the United
22 States Constitution.

23 90. Accordingly, Plaintiffs are entitled to a declaration that Sections 3, 4 and 5 of
24 Proposition 200 are unconstitutional and to an order temporarily and permanently
25 enjoining their enforcement.
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FIFTH CAUSE OF ACTION

(Section 2 of the Voting Rights Act, 42 U.S.C. 1973)

91. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

92. Proposition 200's requirement that the county recorder reject applications for registration that do not include satisfactory evidence of citizenship disparately affects Latino voters, unlawfully dilutes Latino voters' right to vote, and provides them with less opportunity than other members of the electorate to participate in the political process.

93. Proposition 200's requirement that voters possess certain forms of identification to cast a ballot disparately affects Latino voters, unlawfully dilutes Latino voters' right to vote, and provides them with less opportunity than other members of the electorate to participate in the political process.

94. Accordingly, Plaintiffs are entitled to a declaration that Sections 3, 4 and 5 of Proposition 200 violate their rights under Section 2 of the Voting Rights Act and to an order temporarily and permanently enjoining their enforcement.

SIXTH CAUSE OF ACTION

(Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c)

95. Plaintiffs incorporate by reference all foregoing paragraphs as if setforth fully here.

96. Defendants have failed to secure federal preclearance of their practice of rejecting mail voter registration forms prescribed by the U.S. Election Assistance Commission. As a result, this change in voting practices is legally unenforceable. Unless enjoined, Defendants will continue to violate the rights of Plaintiffs under Section 5 of the Voting Rights Act by failing to use and accept the federal mail voter registration form.

97. Accordingly, Plaintiffs are entitled to a declaration that Defendants' implementation of Sections 3 and 4 of Proposition 200 violates their rights under Section 5 of the Voting Rights Act and to an order temporarily and permanently enjoining their

1 enforcement.

2 **SEVENTH CAUSE OF ACTION**

3 (Title VI of the Civil Rights Act of 1965)

4 98. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

5 99. Defendants have violated Title VI of the Civil Rights Act of 1965, 42 U.S.C. 2000d,
6 *et seq.* by excluding Plaintiffs from participation in, denying Plaintiffs the benefits of,
7 and subjecting Plaintiffs to discrimination under Arizona election-related programs
8 or activities receiving federal financial assistance on the basis of their national origin.

9 100. Accordingly, Plaintiffs are entitled to a declaration that Defendants' implementation
10 of Sections 3 and 4 of Proposition 200 violates their rights under Title VI of the Civil
11 Rights Act of 1964 and to an order temporarily and permanently enjoining their
12 enforcement.

13 **EIGHTH CAUSE OF ACTION**

14 (National Voter Registration Act of 1993)

15 101. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

16 102. Defendants' implementation of Sections 3 and 4 of Proposition 200 violates Section
17 6 of the National Voter Registration Act of 1993 (NVRA), 42 U.S.C. 1973gg-4, which
18 requires the State of Arizona to accept and use the mail voter registration application
19 form prescribed by the U.S. Election Assistance Commission pursuant to 42 U.S.C.
20 1973gg-7(a)(2) for the registration of voters in elections for Federal office.

21 103. Accordingly, Plaintiffs are entitled to a declaration that Defendants' implementation
22 of Sections 3 and 4 of Proposition 200 violates their rights under the NVRA and to an
23 order temporarily and permanently enjoining their enforcement.

24 **NINTH CAUSE OF ACTION**

25 (16-121.01, Arizona Revised Statutes)

26 104. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

1 105. The enforcement of Sections 3 and 4 of Proposition 200 by Defendants violates 16-
2 121.01 of the Arizona Revised Statutes, which provides that a person is presumed to
3 be properly registered to vote on completion of a registration form that includes,
4 among other things, an affirmation of U.S. citizenship and without the submission of
5 further documentary proof of citizenship.

6 106. Accordingly, Plaintiffs are entitled to a declaration that Defendants' implementation
7 of Sections 3 and 4 of Proposition 200 violates their rights under A.R.S. Section 16-
8 121.01 and to an order temporarily and permanently enjoining their enforcement.

9 **TENTH CAUSE OF ACTION**

10 (16-151 (B), Arizona Revised Statutes)

11 107. Plaintiffs incorporate by reference all foregoing paragraphs as if set forth fully here.

12 108. Defendants' failure to make available the federal mail voter registration applications
13 now prescribed by the U.S. Elections Assistance Commission violates Section 16-151
14 (B) of the Arizona Revised Statutes, which provides that "The secretary of state shall
15 make available for distribution through governmental and private entities the voter
16 registration forms that are prescribed by the federal election commission."

17 109. Accordingly, Plaintiffs are entitled to a declaration that Defendants' implementation
18 of Sections 3 and 4 of Proposition 200 violates their rights under A.R.S. Section 16-
19 151(B) and to an order temporarily and permanently enjoining their enforcement.

20 **REQUEST FOR RELIEF**

21 WHEREFORE, Plaintiffs respectfully request that this Court:

22 Issue a declaration that Sections 3, 4 and 5 of Proposition 200 are unconstitutional and illegal
23 and of no force or effect;

24 Issue a Temporary Restraining Order and Preliminary Injunction against Defendants enjoining
25 them from implementing and enforcing sections 3 and 4 of Proposition 200 pending trial that;

26 1. Declares that the Defendants have failed to implement the requirements of Section 6
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1 of the NVRA, 42 U.S.C. 1973gg-4 and have violated Section 5 of the Voting Rights
2 Act of 1965;

3 2. Enjoins the Defendants, their agents and successors in office, and all persons acting
4 in concert with any of them, from failing to comply with the requirements of Section
5 6 of the NVRA, 42 U.S.C. 1973gg-4; and

6 3. Orders the Defendants, their agents and successors in office, and all persons acting in
7 concert with any of them to:

8 a. Use and accept the mail voter registration application form prescribed by the
9 Election Assistance Commission as required by Section 6 of the NVRA, 42
10 U.S.C. 1973gg-4;

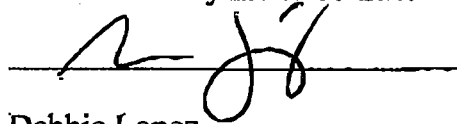
11 b. Take all steps necessary, including the adoption of appropriate administrative
12 policies or rules, to register those voter registration applicants who complete
13 and submit the mail voter registration application form prescribed by the
14 Election Assistance Commission.

15 c. Immediately add to the voter registration rolls those voter registration
16 applicants who previously submitted to any County Recorder a completed mail
17 voter registration application form prescribed by the Election Assistance
18 Commission and whose application was rejected for failure to provide
19 additional proof of citizenship.

20 d. Publicize effectively the remedial plans and programs addressing these NVRA
21 violations to ensure widespread dissemination to State of Arizona residents,
22 among others, especially those who, at the time of the Court's order, may have
23 been denied the opportunity to register to vote in Arizona for failure to provide
24 proof of citizenship greater than that required by the federal mail voter
25 registration application form prescribed by the Election Assistance
26 Commission;

VERIFICATION

I, Debbie Lopez, a citizen of the United States and resident of the State of Arizona, am a plaintiff in this action. I have read the foregoing Verified Complaint and declare under penalty of perjury under the laws of the United States of America that the foregoing facts are correct and true to the best of my knowledge and belief and that those factual matters that are stated upon information and belief are believed by me to be true.


Debbie Lopez

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CERTIFICATE OF SERVICE

I here by certify that on this 9th day of May, 2006, I served a true and correct copy of Complaint for Declaratory and Injunctive Relief on counsel of record by sending said copy via U.S. certified mail, return receipt requested to:

Peter Silverman
Assistant Attorney General
1275 W. Washington
Phoenix, AZ 85007

LeNora Johnson
Apache County Recorder
Penny L. Pew
Director
Apache County Elections
P. O. Box 425
St. Johns AZ 85936

Christine Rhodes
Cochise County Recorder
Thomas Schelling
Elections Officer
1415 W. Melody Lane, Bldg. B
Bisbee AZ 85603

Candace D. Owens
Coconino County Recorder
Patty Hansen
Election Administrator
Coconino County Courthouse
110 E. Cherry Avenue
Flagstaff AZ 86001

Linda Haught Ortega
Gila County Recorder
Dixie Mundy
Director
1400 East Ash Street
Globe AZ 85501

Wendy John
Graham County Recorder
Judy Dickerson
Elections Officer
921 Thatcher Blvd.
Safford AZ 85546

Berta Manuz
Greenlee County Recorder
Yvonne Pearson
Elections Director
Greenlee City Courthouse
5th St. Webster
Clifton AZ 85533

Shelly Baker
La Paz County Recorder
Donna J. Hale
Clerk
1112 Joshua Avenue, Suite 201
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Helen Purcell
Maricopa County Recorder
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Laurette Justman
Navajo County Recorder
Kelly Dastrup
Election Director
P. O. Box 668
Holbrook AZ 86025

F. Ann Rodriguez
Pima County Recorder
Brad R. Nelson
Election Director
P. O. Box 3145
Tucson AZ 85702

1 Laura Dean-Lytle
Pinal County Recorder
2 Gilberto Hoyos, Director
P. O. Box 848
3 Florence AZ 85232

4 Suzie Sainz
Santa Cruz County Recorder
5 Melinda Meek
Clerk
6 Santa Cruz County Courthouse
P.O. Box 1150
7 Nogales AZ 85628

8 Ann Wayman-Trujillo
Yavapai County Recorder
9 Lynn A. Constabile
Director
10 1015 Fair Street
Prescott AZ 86305

11 Susan Hightower Marler
12 Yuma County Recorder
Patty Madrill
13 Elections Director
410 S. Maiden Lane, Suite B
14 Yuma AZ 85364

/s/

Nina Perales

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