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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

The Navajo Nation, et al.,

Plaintiffs,

v.

Michele Reagan, et. al.,

Defendants.

No. CV-18-08329-PCT-DWL

**JOINT MOTION FOR A
TEMPORARY STAY OF
PROCEEDINGS**

By and through undersigned counsel, the Parties¹ hereby respectfully submit this

¹ Plaintiffs are the Navajo Nation, Joyce Nez, Denise Johnson, Ashley Atene Sr., Irene Roy, Bonnie Tsosie, and Dale Smith. Defendants are the Secretary of State Michelle Reagan, Apache County Recorder Edison J. Wauneka, Apache County Election Director Angela Romero, the Apache County Board of Supervisors, Chairman Alton Joe of the Apache County Board of Supervisors, Navajo County Recorder Doris Clark, Navajo County Elections Director Rayleen Richards, the Navajo County Board of Supervisors, Chairman Jesse Thompson of the Navajo County Board of Supervisors, Coconino County Elections Director Mark Mayrand, Coconino County Recorder Patty Hansen, the Coconino County Board of Supervisors, and Chairman Art Babbott of the Coconino County Board of Supervisors.

1 Joint Motion for a Temporary Stay of Proceedings for 120 days in the above-captioned
2 matter. The Parties request an Order staying this matter so the Parties can work on a
3 potential settlement to the underlying lawsuit. Since the filing of the original complaint on
4 November 20, 2018, the Parties have begun settlement discussions and want to continue
5 these productive discussions. Specifically, the Parties state that the following in support of
6 this request:

7 1. Shortly after the original complaint was filed on November 20, 2018, ECF
8 No. 1, the parties agreed that discussions should take place to identify any potential
9 resolution of the Plaintiffs' claims prospectively.

10 2. Attorneys for the Navajo Nation exchanged email communications with the
11 attorneys from Apache, Navajo, and Coconino Counties and the Attorney General's Office,
12 and all agreed to schedule meetings to discuss the outline of a potential settlement before
13 protracted litigation begins.

14 3. On November 29, 2018, the Navajo Nation met with Navajo County and the
15 parties had productive discussions regarding a settlement.

16 4. On December 4, 2018, attorneys for the Navajo Nation had a conference call
17 with the Arizona Attorney General's Office regarding the issues raised in the complaint.

18 5. On December 13, 2018, the Navajo Nation met with officials from Coconino
19 County and the parties had a productive discussion regarding issues raised in the complaint.

20 6. Additional meetings have been delayed until after the new year.

21 7. The Parties are committed to trying to determine which issues can be
22 resolved prior to engaging in discovery.

23 8. Plaintiffs filed an Amended Complaint on December 11, 2018, ECF. No. 29.
24 The Amended Complaint added the Apache, Coconino, and Navajo County Board of
25 Supervisors and the chairperson of the Board of Supervisors of Apache, Coconino, and
26 Navajo Counties as Defendants.

27 9. The new county Defendants have waived service of process, and each has 60
28 days to respond to the Amended Complaint.

1 10. Pursuant to Federal Rule of Civil Procedure 15(3), the original Defendants
2 (the Secretary of State and the county recorders and election directors) have fourteen (14)
3 days to file a responsive pleading to the Amended Complaint, currently December 26,
4 2018.

5 11. The Parties agree that it would be better for all Defendants to be on the same
6 timeframe so that each county only has to prepare one responsive pleading for its respective
7 county Defendants.

8 12. This Court has the inherent authority to stay this matter. “The District Court
9 has broad discretion to stay proceedings incident to its power to control its own docket.”
10 *Clinton v. Jones*, 520 U.S. 681, 706 (1997). “[T]he power to stay proceedings is incidental
11 to the power inherent in every court to control the disposition of the causes on its docket
12 with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am.*
13 *Co.*, 299 U.S. 248, 254 (1936). On the considerations on granting or denying a stay, the
14 Ninth Circuit has noted:

15 Where it is proposed that a pending proceeding be stayed, the competing
16 interests which will be affected by the granting or refusal to grant a stay must
17 be weighed. Among those competing interests are the possible damage which
18 may result from the granting of a stay, the hardship or inequity which a party
19 may suffer in being required to go forward, and the orderly course of justice
measured in terms of the simplifying or complicating of issues, proof, and
questions of law which could be expected to result from a stay.

20 *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005).

21 13. Because this motion is submitted jointly by the parties, there is no potential
22 prejudice to either party if the stay is granted. No hearings have been scheduled in this
23 action, and there are no pending deadlines (other than defendants’ response to the Amended
24 Complaint); therefore, a stay would not affect any current proceedings in this Court.
25 Therefore, there is no hardship or damage to the Parties. The Parties agree that a stay of the
26 litigation proceedings in this matter for 120 days would be beneficial to the Parties and
27 conserve the Court’s resources while the Parties’ discussions regarding a potential
28 resolution of this litigation take place.

1 14. This joint motion is being filed instead of a responsive pleading. Should this
2 Court deny the motion, the Defendants respectfully request that all Defendants be permitted
3 sixty (60) days to file a responsive pleading of this Court's entering such a denial.

4 WHEREFORE, the Parties request that the Court grant the proposed Order
5 staying the proceedings in the litigation for 120 days, to allow the Parties to engage in
6 settlement discussions in order to resolve this matter.

7 DATED this 24th day of December, 2018.

8 SACKS TIERNEY P.A.

9 By: s/ Patty A. Ferguson-Bohnee

10 Patty A. Ferguson-Bohnee

11 Judith M. Dworkin

12 Joe Keene

13 and

14 Ethel B. Branch

15 Paul Spruhan

16 NAVAJO NATION DEPARTMENT OF JUSTICE

17 Attorneys for the Navajo Nation and individual
18 Navajo Plaintiffs

19 By: s/ Joseph E. La Rue

20 Joseph E. La Rue

21 Assistant Attorney General

22 Kara Karlson

23 Assistant Attorney General

24 Attorney for Defendant Arizona Secretary of
25 State Michele Reagan

26 By: s/ Joe Young

27 Joe Young

28 Apache County Deputy County Attorney

Attorneys for Apache County Defendants

By: s/ Rose Winkeler

Rose Winkeler

Coconino County Deputy County Attorney

Attorneys for Coconino County Defendants

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By: s/ Jason S. Moore
Jason S. Moore
Navajo County Deputy County Attorney
Attorneys for Navajo County Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on December 24, 2018, I electronically transmitted the foregoing JOINT MOTION TO STAY PROCEEDINGS to the Clerk's Office using the CM/ECF System for filing.

s/Rebecca C. Urias

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