

SACKS TIERNEY P.A., ATTORNEYS
4250 NORTH DRINKWATER BOULEVARD
FOURTH FLOOR
SCOTTSDALE, ARIZONA 85251-3693

Patty A. Ferguson-Bohnee (AZ 020996)
Patty.Ferguson@SacksTierney.com
Judith M. Dworkin (AZ 010849)
Judith.Dworkin@SacksTierney.com
Joe W. Keene (AZ 032623)
Joe.Keene@sackstierney.com
SACKS TIERNEY P.A.
4250 N. Drinkwater Blvd., 4th Floor
Scottsdale, AZ 85251-3693
Telephone: 480.425.2600

Paul Spruhan (NM 12513)
pspruhan@nndoj.org
Navajo Nation Dept. of Justice
P.O. Drawer 2010
Window Rock, Arizona 86515
Telephone: (928) 871-6210
Facsimile: (928) 871-6177
Attorneys for Plaintiffs

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

The Navajo Nation, et al.,

Plaintiffs,

v.

Katie Hobbs, et al.,

Defendants.

No. CV-18-08329-PCT-DWL

JOINT STATUS REPORT

Pursuant to this Court's January 2, 2019 Order, the Plaintiffs and Defendants ("Parties")¹, through their undersigned counsel, submit the following Joint Status Report

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 Katie Hobbs, 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 and accompanying Motion for a Stay (Second Request) for an additional 100 days to allow
2 for extended settlement negotiations.

3 Regarding the history of this case, on November 20, 2018, Plaintiffs filed *Navajo*
4 *Nation et al., v. Regan et al.*, CV18-08329, in the Federal District Court in Arizona
5 (“Court) on behalf of Navajo voters against the Arizona Secretary of State and officials
6 from Apache, Coconino, and Navajo Counties. The lawsuit requested a temporary
7 restraining order (“TRO”) and permanent injunctive relief alleging violations of the Voting
8 Rights Act and constitutional violations of the First and Fourteenth Amendments. The
9 claims included unequal access to early voting, unequal access to voter registration, lack of
10 opportunity to cure early ballots, and ineffective language assistance. Plaintiffs amended
11 their complaint on December 11, 2018 (Doc. 29). On December 24, 2018, the Parties filed
12 a Joint Motion for a Temporary Stay of Proceedings (Doc. 35) to allow for settlement
13 discussions. On January 2, 2019, the Court issued an Order granting the Parties’ Joint
14 Motion (Doc. 36).

15 Regarding this Joint Status Report on the settlement negotiations, the Parties inform
16 the Court that settlement negotiations have been productive and a potential settlement for
17 this case is foreseeable.² The Parties have been working on a settlement with
18 communications through phone calls, emails, and have had in-person meetings at the
19 Navajo Nation Attorney General’s Office in Window Rock, Arizona. The status of
20 meetings and discussions between Plaintiffs and Defendants are outlined below.

21 1. The Navajo Nation and Navajo County have held two meetings, one on
22 November 29, 2018 and one on January 7, 2019. Agreements have been reached on voter
23 registration, early voting and language assistance.

24 2. The Navajo Nation and Coconino County met on December 13, 2018. No

25 ² Because the Parties in this case are governments, settlement discussions were delayed due
26 to subsequent elections and changes in leadership. The Navajo Nation filed a Notice of
27 Withdrawal of Counsel on January 17, 2019 (Doc. 37) for outgoing Navajo Attorney
28 General Ethel Branch, who is no longer Attorney General for the Navajo Nation. The
Arizona Attorney General filed a Notice of Substitution of Defendant replacing outgoing
Secretary of State Michelle Reagan with current Secretary of State Katie Hobbs (Doc. 39).

1 agreement has yet been reached, but the parties are in discussions regarding voter
2 registration, early voting, and language assistance. The Navajo Nation and Coconino
3 County are hopeful that an agreement can be reached, but additional time is needed to
4 determine specific details.

5 3. The Navajo Nation and Apache County met on January 29, 2019. An
6 agreement in principle has been reached on voter registration, early voting, and language
7 assistance. Additional time is needed to review the proposed settlement terms.

8 4. The Navajo Nation and the Secretary of State's attorneys have had two
9 discussions, one on December 4, 2018 and a second on April 8, 2019. Discussions
10 surround curing of unsigned early ballots and Navajo language translations. Additional
11 time is needed to review the Navajo Nation's proposed settlement language.

12 5. The issue of curing mismatched/inconsistent signatures on early ballot
13 affidavits is moot. The Arizona Legislature passed SB 1054, to allow voters to cure
14 inconsistent signatures. The Governor signed this bill on April 1, 2019.

15 6. The issue of curing unsigned early ballot affidavits has not yet been resolved.
16 The issue of unsigned early ballots was removed from SB 1054, and more time is needed
17 for the parties to resolve this issue. The Counties' positions are dependent on the Secretary
18 of State's position of agreeing to statewide application of curing options for early voters
19 who fail to sign their early ballots. The parties are hopeful that this issue can be resolved.

20 The Parties are in continuous discussions regarding potential settlement language,
21 and therefore, as set forth in the accompanying Motion, would like a 100-day extension to
22 continue their settlement discussions. The Parties feel that engaging in litigation (i.e.
23 discovery) at this time is unnecessary and respectfully request more time to potentially
24 reach a final settlement.

25 In the event the Parties' settlement discussions breakdown and an agreement cannot
26 be reached, the Parties will file a Notice with the Court and file a Proposed Scheduling
27 Order within 10 days after their Notice.
28

Respectfully submitted this 23rd day of April, 2019.

SACKS TIERNEY P.A.

By: s/ Patty A. Ferguson-Bohnee

Patty A. Ferguson-Bohnee

Judith M. Dworkin

Joe Keene

and

Paul Spruhan

NAVAJO NATION DEPARTMENT OF
JUSTICE

Attorneys for the Plaintiffs

Mark Brnovich

Attorney General

By: s/ Joseph E. La Rue

Joseph E. La Rue

Assistant Attorney General

*Attorney for Defendant Arizona Secretary of
State Katie Hobbs*

s/ Jason S. Moore

Jason S. Moore

Deputy County Attorney

*Attorneys for Doris Clark and Rayleen
Richards*

WILLIAM P. RING

Coconino County Attorney

By: s/ Rose Winkeler

Rose Winkeler

Deputy County Attorney

Attorneys for Coconino County

CERTIFICATE OF SERVICE

I hereby certify that on April 23, 2019, I electronically transmitted the foregoing
JOINT STATUS REPORT to the Clerk's Office using the CM/ECF System for filing.

s/ Rebecca C. Urias

SACKS TIERNEY P.A., ATTORNEYS
4250 NORTH DRINKWATER BOULEVARD
FOURTH FLOOR
SCOTTSDALE, ARIZONA 85251-3693

SACKS TIERNEY P.A., ATTORNEYS
4250 NORTH DRINKWATER BOULEVARD
FOURTH FLOOR
SCOTTSDALE, ARIZONA 85251-3693

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28