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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Navajo Nation, et al.,  
10 Plaintiffs,

11 v.

12 Michele Reagan, et al.,  
13 Defendants.  
14

No. CV-18-08329-PCT-DWL

**ORDER**

15 The Court has reviewed the parties' joint memorandum supporting the retention of  
16 jurisdiction (Doc. 47) and has some additional questions.

17 As background, the Secretary of State has two obligations under the proposed  
18 settlement agreement (Doc. 44-2). First, the paragraph entitled "Missing-Signature Cure  
19 Opportunity" requires the Secretary of State to "cause language to be included in the next  
20 Draft Elections Procedures Manual" regarding the curing of unsigned ballots. (*Id.* at 3.)  
21 Second, the paragraph entitled "Navajo-Language Publication of the Publicity Pamphlet"  
22 states that "[t]he Secretary of State shall continue to use certified Navajo translators to  
23 coordinate and make available the Navajo-language translation of ballot measure language  
24 in the Publicity Pamphlet, as provided by A.R.S. § 19-123(A), except that this requirement  
25 shall not extend to '[t]he arguments for and against the measure or amendment' submitted  
26 by members of the public as provided by A.R.S. § 19-123(A)(3)." (*Id.* at 4-5.)

27 The Court is willing to retain jurisdiction concerning the first obligation because it  
28 is a one-time obligation the Secretary of State must perform at least 90 days before the next

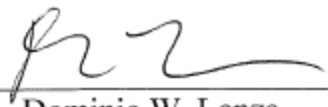
1 election. *See* A.R.S. § 16-452(B) (“The secretary of state shall submit the manual to the  
2 governor and the attorney general not fewer than ninety days before each election.”).  
3 Retention of jurisdiction is appropriate given this time limitation. Nevertheless, the Court  
4 wishes to have the parties confirm that the Secretary’s obligation is limited to including the  
5 proposed language in the *draft* version of the next Elections Procedure Manual, not  
6 guaranteeing that it appears in the *final* version of the next Elections Procedure Manual.  
7 The parties seem to recognize this limitation in the paragraph appearing on page four of  
8 the settlement agreement, which provides that “[t]he Plaintiffs understand and  
9 acknowledge that the Secretary cannot, by herself, exact a new Elections Procedures  
10 Manual,” that “the Governor and Attorney General must give their approval to the draft  
11 manual before the Secretary can issue it,” and that “the Plaintiffs reserve their right to file  
12 a new lawsuit should the next Elections Procedure Manual not specify that missing  
13 signatures are allowed to be cured in the same manner and timeframe as inconsistent  
14 signatures.” (Doc. 44-2 at 4.) The Court reads this paragraph as acknowledging that, if  
15 the Secretary of State includes the requested language in the draft version of the next  
16 Elections Procedure Manual but it doesn’t make it into the final version, Plaintiffs would  
17 not be able to seek relief from this Court under a breach-of-settlement-agreement theory  
18 and instead would be required to “file a new lawsuit.”

19 As for the second obligation, an agreement to “*continue* to use certified Navajo  
20 translators to coordinate and make available the Navajo-language translation of ballot  
21 measure language in the Publicity Pamphlet” (Doc. 44-2 at 4, emphasis added) suggests  
22 the Secretary of State is already following the law and is simply agreeing to continue to do  
23 so in the future. It’s unclear why federal oversight is required in this circumstance. Also  
24 concerning is the fact that, unlike the first obligation, this obligation doesn’t seem to have  
25 any time limitation attached to it. Thus, if the Court were to agree to retain jurisdiction  
26 over this portion of the settlement agreement, it would presumably be agreeing to retain  
27 jurisdiction over every future dispute in Arizona concerning Navajo-language translation  
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1 issues during elections. This doesn't seem like an appropriate exercise of jurisdiction,<sup>1</sup>  
2 particularly where the underlying settlement agreement is arguably vague as to what the  
3 Secretary of State is agreeing to do (and not do)—an agreement to “coordinate and make  
4 available” certain translated materials begs the question of what constitutes an appropriate  
5 level of coordination and availability.

6 The parties are invited to file another joint memorandum addressing the issues  
7 identified in this order. Any such memorandum must be filed by **August 30, 2019**.

8 Dated this 22nd day of August, 2019.

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13 Dominic W. Lanza  
14 United States District Judge  
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28 <sup>1</sup> *Cf. Brass Smith, LLC v. RPI Indus., Inc.*, 827 F. Supp. 2d 377, 380-82 (D.N.J. 2011)  
 (“[T]here is no authority that states that a court shall exercise jurisdiction indefinitely.”).