

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

CELIA VALDEZ, GRACIELA GRAJEDA,  
SHAWNA ALLERS, and JESSE  
RODRIGUEZ,

Plaintiffs,

v.

MARY HERRERA, in her official capacity as  
New Mexico Secretary of State, KATHRYN  
FALLS in her official capacity as Secretary of  
New Mexico Human Services Department,  
FRED SANDOVAL in his official capacity as  
the Director of the Income Support Division of  
the New Mexico Human Services Department,  
CAROLYN INGRAM in her capacity as the  
Director of the Medical Assistance Division of  
the New Mexico Human Services Department,  
DOROTHY RODRIGUEZ in her capacity as  
the Secretary of the New Mexico Taxation and  
Revenue Department, and MICHAEL  
SANDOVAL, in his capacity as the Director of  
the Motor Vehicle Division of the New Mexico  
Taxation and Revenue Department,

Defendants.

CIVIL ACTION NO. 1:09-cv-668 JCH/DJS

**NOTICE OF NEW COURT DECISION  
RELEVANT TO PENDING MOTIONS FOR SUMMARY JUDGMENT**

Plaintiffs respectfully file this Notice of New Court decision to alert the Court to a decision issued yesterday by the Ninth Circuit Court of Appeals which is relevant to the three pending motions for summary judgment, *i.e.*, the motions filed by Plaintiff Shawna Allers [Doc. 109], Defendants Kathryn Falls, Fred Sandoval, and Carolyn Ingram [Doc. 57], and Defendant Mary Herrera [Doc. 111]. *Gonzalez v. Arizona*, No. 08-17094 (9<sup>th</sup> Cir. Oct. 26, 2010), available at <http://www.ca9.uscourts.gov/datastore/opinions/2010/10/26/08-17094.pdf>. The opinion was

authored by Circuit Judge Ikuta and joined by retired Associate Justice O'Connor sitting by designation. Chief Judge Kozinski dissented in large part.

Plaintiffs submit that the relevant portions of the opinion are as follows. At pages 17635-17639 and 17641-17644, the Ninth Circuit addresses the scope of Congress' authority under the Constitution's Elections Clause to mandate state election procedures pursuant to the National Voter Registration Act (NVRA), 42 U.S.C. § 1973gg *et seq.* This pertains to an argument made by Defendant Herrera in her motion for summary judgment, and in her opposition to Plaintiff Allers' motion for partial summary judgment, that Congress did not have the authority to require, under the NVRA, that each State's chief election official (in New Mexico, the Secretary of State) be held responsible for state compliance with the NVRA.

Also, at pages 17644-17652, the Ninth Circuit addresses the structure of the NVRA and Congress' objectives in enacting this statute. This pertains to Plaintiff Allers' arguments in her motion for summary judgment, and in her opposition to the summary judgment motion filed by Defendants Falls, Sandoval, and Ingram, regarding the circumstances in which a voter registration application must be distributed to public assistance clients pursuant to the NVRA.

DATED this 27<sup>th</sup> day of October, 2010.

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**CERTIFICATE OF SERVICE**

I certify that on the 27<sup>th</sup> day of October, 2010, I served the foregoing by electronic means on:

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