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July 1, 2013

Mr. Lyle W. Caycee, Clerk
United States Court of Appeals for the Fifth Circuit
600 South Maestri Place
New Orleans, Louisiana 70130-3408

Re: *Project Vote et al. v. John Steen*, Case No. 12-40914, Citation of L

Project Vote and Voting for America, Inc., submit this 28(j) letter to inform the Court of *Arizona v. Inter Tribal Council of Arizona, Inc.*, a recent Supreme Court decision holding Arizona’s evidence-of-citizenship requirement to be preempted by the NVRA’s mandate that states “accept and use” the federal voter registration form. No. 12–71 (S. Ct. June 17, 2013).

Inter Tribal Council disposes of Steen’s argument that Texas “accepts” and “uses” the federal voter registration form while simultaneously imposing criminal penalties on canvassers who submit the form on behalf of consenting, eligible applicants. The court concluded that imposing additional requirements on the federal form is impermissible, finding it “improbable” that the NVRA “envisions a completed copy of the form it takes such pains to create as being anything less than valid.” *Id.* at 9. Looking to the text and structure of the NVRA, as well as a list of statutes using the same word, the court concluded that “accept” denotes more than just “willing receipt” of the form. *Id.* at 7. The court also conclusively ruled that there is no “presumption against preemption” when Congress acts under the Elections Clause, and that provisions that are “inconsistent with” the NVRA are preempted. *Id.* at 12 (citation omitted). Given the criminal penalties imposed for the federal voter registration forms’ submission, Texas law is clearly “inconsistent with” the NVRA.

But the significance of the decision goes beyond just the NVRA claims. Both the dissent and the majority agree that the federal form was intended to “facilitate interstate voter registration drives.” *Id.* at 9 n.4. Texas impedes registration organizations from conducting interstate registration drives—the very purpose of the form—through laws that seriously restrict compensation and eliminate out-of-state volunteer deputy registrars.

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/s/ Chad W. Dunn
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cc: Counsel of Record (via ECF)