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12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF ARIZONA**

14 Arizona Democratic Party, et al., )  
15 ) Case No. CV-16-01065-PHX-DLR  
16 Plaintiffs, )  
17 v. ) **STATE DEFENDANTS' ANSWER TO**  
18 Arizona Secretary of State's Office, et al., ) **PLAINTIFFS' SECOND AMENDED**  
19 ) **COMPLAINT (DOC. 233).**  
20 Defendants. )  
21 )

22 Arizona Secretary of State Michele Reagan and Arizona Attorney General Mark  
23 Brnovich (together, the "State Defendants")<sup>1</sup> answer the Plaintiffs' Second Amended  
24 Complaint (Doc. 233) and set forth their affirmative defenses, as follows.

25 //

26  
27 <sup>1</sup> Plaintiffs' Second Amended Complaint names the Arizona Secretary of State's Office as an  
28 additional defendant. (Doc. 233 at 2). The Secretary of State's Office was dismissed pursuant to  
this Court's Order. (Doc. 267 at 11).

**Nature of the Action**

1  
2 1. The State Defendants admit that Plaintiffs allege their claims arise out of 42  
3 U.S.C. § 1983. The State Defendants deny the remaining allegations in paragraph 1.

4 2. The State Defendants admit that Plaintiffs' quotation of a partial sentence  
5 from *Wesberry v. Sanders*, 376 U.S. 1 (1964) in Paragraph 2 is accurate. To the extent  
6 that Plaintiffs intend to draw legal conclusions from that quotation, no response is  
7 required. Paragraph 2 also includes allegations regarding why Plaintiffs brought their  
8 lawsuit. The State Defendants are without sufficient knowledge or information to form a  
9 belief as to the truth of those allegations and so deny them. The State Defendants deny  
10 all remaining allegations in Paragraph 2.

11 3. The State Defendants admit that in 1975 Arizona became a "covered  
12 jurisdiction" under Section 5 of the Voting Rights Act, and that Arizona was subject to  
13 Section 5 for approximately thirty-eight years. The allegations regarding the effect of  
14 Section 5 are legal conclusions to which no response is required. The State Defendants  
15 deny all remaining allegations in Paragraph 3.

16 4. The State Defendants admit that the *Shelby County v. Holder*, 133 S. Ct.  
17 2612 (2013), decision issued on June 25, 2013. The remaining allegations contained in  
18 Paragraph 4 assert legal conclusions to which no response is required. To the extent  
19 allegations are asserted to which a response is required, the State Defendants deny the  
20 allegations.

21 5. The State Defendants deny the allegations contained in Paragraph 5.

22 6. The State Defendants admit that Arizona law prohibits the counting of  
23 provisional ballots that are cast in the wrong precinct. The State Defendants further  
24 admit that the State reported to the United States Election Assistance Commission (the  
25 "EAC") that more than 121,000 provisional ballots were cast in the five general elections  
26 held between 2006 and 2014, and that the State reported to the EAC more than 33,000  
27 rejected provisional ballots in the 2012 general election. The remainder of Paragraph 6  
28 contains conclusory statements inferred or drawn from the Plaintiffs' expert witness's

1 report, which the State Defendants deny. The State Defendants affirmatively allege that  
2 Plaintiffs' expert witness's report was based on insufficient facts and data, is the product  
3 of unreliable principles and methods, and does not reliably apply acceptable principles  
4 and methods to the facts of this case.

5 7. The State Defendants admit the Plaintiffs' statement regarding how many  
6 provisional ballots were rejected by Maricopa County as a result of being cast in the  
7 incorrect precinct. The State Defendants deny all remaining allegations in Paragraph 7.

8 8. Paragraph 8 contains conclusory statements inferred or drawn from the  
9 Plaintiffs' expert witness's report, which the State Defendants deny. The State  
10 Defendants affirmatively allege that Plaintiffs' expert witness's report was based on  
11 insufficient facts and data, is the product of unreliable principles and methods, and does  
12 not reliably apply acceptable principles and methods to the facts of this case.

13 9. The State Defendants admit that H.B. 2023 was enacted by the Arizona  
14 State Legislature in March 2016. Regarding the Plaintiffs' characterization of the legal  
15 effect of the law, the law speaks for itself and no response is required. The State  
16 Defendants deny all remaining allegations contained in Paragraph 9.

17 10. The State Defendants deny the allegations contained in Paragraph 10.

18 11. The State Defendants deny the allegations contained in Paragraph 11.

19 **Jurisdiction and Venue**

20 12. The State Defendants deny the allegations contained in Paragraph 12.

21 13. The State Defendants admit the allegations contained in Paragraph 13.

22 14. The State Defendants admit the allegations contained in Paragraph 14.

23 **Parties**

24 15. Paragraph 15 contains allegations about the legal existence, membership,  
25 and mission of Plaintiff Democratic National Committee (the "DNC"). The allegations  
26 regarding the legal existence of the DNC assert legal conclusions to which no response is  
27 required. The State Defendants are without sufficient knowledge or information to form  
28 a belief as to the truth of the allegations regarding the membership and mission of the

1 DNC and so deny them. This paragraph contains a number of purely speculative  
2 allegations, which the State Defendants deny. The State Defendants deny all remaining  
3 allegations contained in Paragraph 15.

4 16. The State Defendants deny the allegations contained in Paragraph 16.

5 17. Paragraph 17 contains allegations about the legal existence, establishment,  
6 maintenance, membership, and mission of Plaintiff Democratic Senatorial Campaign  
7 Committee (the “DSCC”). The allegations regarding the legal existence of the DSCC  
8 assert legal conclusions to which no response is required. The State Defendants are  
9 without sufficient knowledge or information to form a belief as to the truth of the  
10 allegations regarding the establishment, maintenance, membership and mission of the  
11 DSCC and so deny them. The State Defendants deny all remaining allegations in  
12 Paragraph 17.

13 18. The State Defendants deny the allegations contained in Paragraph 18.

14 19. Paragraph 19 contains allegations about the legal existence, membership,  
15 and mission of Plaintiff Arizona Democratic Party (the “ADP”). The allegations  
16 regarding the legal existence of the ADP assert legal conclusions to which no response is  
17 required. The State Defendants are without sufficient knowledge or information to form  
18 a belief as to the truth of the allegations regarding the membership and mission of the  
19 ADP and so deny them. The State Defendants deny all remaining allegations in  
20 Paragraph 19.

21 20. Paragraph 20 alleges that the Arizona Democratic Party has previously  
22 turned in ballots for voters, and also contains allegations related to the Arizona  
23 Democratic Party’s get-out-the-vote strategy, as well as how it supports its members.  
24 The State Defendants are without sufficient knowledge or information to form a belief as  
25 to the truth of those allegations and so deny them. Paragraph 20 also asserts legal  
26 conclusions related to H.B. 2023 to which no response is required. The State Defendants  
27 deny all remaining allegations in Paragraph 20.  
28

1           21. The allegations in Paragraph 21 relate to the Arizona Secretary of State's  
2 Office, which has been dismissed as a Defendant, and therefore no response is required.  
3 (Doc. 267, at 11).

4           22. The State Defendants admit that Michele Reagan is the Arizona Secretary  
5 of State, the Secretary issues the Arizona Election Procedures Manual (the "Manual"),  
6 the Manual is approved by the Governor and Attorney General, and that the Secretary is  
7 sued in her official capacity. The State Defendants deny that the Secretary is  
8 "responsible for overseeing the voting process in Arizona, and is empowered with broad  
9 authority to carry out that responsibility." The State Defendants affirmatively state that  
10 Arizona law provides the state's fifteen counties with the primary responsibility of  
11 selecting polling places and vote centers, training poll workers, printing ballots, providing  
12 personnel at voting locations on election day, and counting ballots. A.R.S. §§ 16-411  
13 (providing that the county board of supervisors shall designate polling places); 16-602  
14 (requiring the county board of supervisors to print and provide ballots to voters); 16-  
15 609(B) (giving the responsibility of rejecting illegal or invalid ballots to the county  
16 election or tally board); 16-615 (explaining the process of providing the official election  
17 returns to the "officer in charge of the election" in the county). The remaining allegations  
18 in Paragraph 22 assert legal conclusions to which no response is required. To the extent  
19 allegations are asserted to which a response is required, the State Defendants deny the  
20 allegations.

21           23. The State Defendants admit that Mark Brnovich is the Attorney General, he  
22 approves the Manual, and he is sued in his official capacity. The remaining allegations in  
23 Paragraph 23 assert legal conclusions to which no response is required. To the extent  
24 allegations are asserted to which a response is required, the State Defendants deny the  
25 allegations.

### General Allegations

26           24. The State Defendants admit that Arizona was a covered jurisdiction under  
27 to Section 5 of the Voting Rights Act. The allegations regarding the effect of Section 5  
28

1 are legal conclusions to which no response is required. The State Defendants deny all  
2 remaining allegations in Paragraph 24.

3 25. The State Defendants admit that Arizona became a state in 1912, that the  
4 United States Congress passed the Indian Citizenship Act in 1924, and that the Arizona  
5 Supreme Court issued its decision in *Harrison v. Laveen*, 196 P.2d 456 (Ariz. 1948), in  
6 1948. The Plaintiffs' characterization of the Indian Citizenship Act and the *Harrison*  
7 decision assert legal conclusions to which no response is required. The State Defendants  
8 deny all remaining allegations in Paragraph 25.

9 26. The State Defendants admit that Arizona enacted a statute in 1912 that  
10 provided that a qualified elector must, among other things, be able to read the United  
11 States Constitution in the English language and write his name, unless a physical  
12 disability prevents him from doing so. The State Defendants also admit that this  
13 legislation was repealed in 1972. The State Defendants further admit that the Voting  
14 Rights Act was amended in 1970 to prohibit literacy tests for voting. To the extent that  
15 Plaintiffs make allegations in Paragraph 26 related to *Oregon v. Mitchell*, 400 U.S. 112  
16 (1970), that case speaks for itself and no response is required. To the extent that  
17 Plaintiffs make allegations asserting legal conclusions in Paragraph 26, no response is  
18 required. The State Defendants deny all remaining allegations in Paragraph 26.

19 27. Paragraph 27 contains various assertions regarding the holdings or  
20 importance of various court decisions. These constitute legal conclusions, and no  
21 response is required. The State Defendants lack knowledge or information sufficient to  
22 form a belief as to the truth of the remaining allegations in paragraph 27, and therefore  
23 deny same.

24 28. The State Defendants admit that Arizona has mandated that public schools  
25 conduct their educational programs in English, and that Arizona law currently specifies  
26 that all children in Arizona public schools shall be taught English as rapidly and  
27 effectively as possible. *See* A.R.S. § 15-751 et seq. The State Defendants deny all  
28 remaining allegations in Paragraph 28.

1           29.     The State Defendants admit that Proposition 203 was passed by Arizona's  
2 voters in 2000. Plaintiffs' characterization of Proposition 203 amounts to a legal  
3 conclusion to which no response is required. Paragraph 29 contains hearsay allegations  
4 concerning various unidentified students and teachers. The State Defendants are without  
5 sufficient knowledge or information to form a belief as to the truth of those allegations,  
6 and so deny them. The State Defendants deny all remaining allegations in Paragraph 29.

7           30.     Paragraph 30 contains the Plaintiffs' characterization of "multiple"  
8 unidentified "court orders" as well as one identified one, *Flores v. Ariz.*, 405 F. Supp. 2d  
9 1112 (D. Ariz. 2005), *vacated* 204 Fed. App'x 580 (9th Cir. 2006). This characterization  
10 amounts to a legal conclusion, which requires no response. Paragraph 30 also contains  
11 allegations regarding the number of non-English speaking students in Arizona's schools.  
12 The State Defendants are without sufficient knowledge or information to form a belief as  
13 to the truth of those allegations, and so deny them. The State Defendants deny all  
14 remaining allegations in Paragraph 30.

15           31.     The State Defendants deny the allegations contained in Paragraph 31.

16           32.     The State Defendants admit that Proposition 200 was passed by Arizona's  
17 voters in 2004, that the Supreme Court decided *Ariz. v. Inter Tribal Council of Ariz., Inc.*,  
18 in 2013, and that Arizona currently requires proof of citizenship in order to register to  
19 vote in state and local elections. Plaintiffs' characterizations of Proposition 200 and *Inter*  
20 *Tribal Council* are legal conclusions to which no response is required. Paragraph 32 also  
21 contains an allegation concerning how many voter registrations have been rejected due to  
22 Proposition 200. The State Defendants are without sufficient knowledge or information  
23 to form a belief as to the truth of those allegations, and so deny it. The State Defendants  
24 deny all remaining allegations in Paragraph 32.

25           33.     The State Defendants admit that Sheriff Arpaio was reelected in 2012. The  
26 State Defendants affirmatively state that Sheriff Arpaio lost in the 2016 general election,  
27 despite the challenged practices being in effect. Paragraph 33 contains a recitation of  
28 facts and opinions related to *Melendres v. Arpaio*, 989 F. Supp. 2d 822 (D. Ariz. 2013)

1 which are legal conclusions that do not require a response. The State Defendants are  
2 without sufficient knowledge or information to form a belief as to the truth of the  
3 remaining allegations contained in Paragraph 33, and so deny them.

4 34. The State Defendants admit that the Arizona legislature passed S.B. 1070 in  
5 2010, and that the court cases that the Plaintiffs cite were decided in the years that the  
6 Plaintiffs claim. The Plaintiffs' characterizations of S.B. 1070 and the holdings of those  
7 court cases are legal conclusions to which no response is required. To the extent that  
8 Paragraph 34 contains additional allegations to which a response is required, the State  
9 Defendants deny them.

10 35. The State Defendants admit that Maricopa County is Arizona's most  
11 populous county. The State Defendants admit that Maricopa County reduced the number  
12 of polling locations for the 2016 presidential preference election ("PPE") because, among  
13 other things, the county was using vote centers for the first time in the PPE. The State  
14 Defendants affirmatively state that because Maricopa County used vote centers for the  
15 PPE, there were no OOP votes. The State Defendants admit that the vote center trial in  
16 Maricopa County for the PPE resulted in some long lines at some vote centers, but are  
17 without sufficient knowledge or information to form a belief as to the truth of the  
18 remaining allegations contained in Paragraph 35, and so deny them.

19 36. The State Defendants deny the Plaintiffs' characterization of Arizona as  
20 discriminatory toward minority voters. The State Defendants are without sufficient  
21 knowledge or information to form a belief as to the truth of the remaining allegations  
22 contained in Paragraph 36, and so deny them.

23 37. The State Defendants admit that Arizona was formerly a covered  
24 jurisdiction under Section 5 of the Voting Rights Act, and provides voting information in  
25 Spanish and Navajo pursuant to Section 4 of the 1975 Voting Rights Act amendments.  
26 The State Defendants admit that the number of racial minorities who are registering to  
27 vote and voting has been continually improving. The State Defendants also admit that  
28 representation of minority elected officials in the State continues to grow. The State

1 Defendants deny that “no Hispanic, Native American, or African American has ever  
2 served as a U.S. Senator representing Arizona, as Attorney General for the State of  
3 Arizona, or on the Arizona Supreme Court[.]” and also deny that Arizona has a “long  
4 history of discrimination.” The State Defendants are without sufficient knowledge or  
5 information to form a belief as to the truth of the remaining allegations contained in  
6 Paragraph 37, and so deny them.

7 38. The Plaintiffs cite court decisions in Paragraph 38 and make conclusory  
8 statements about them. Those decisions speak for themselves and no response is  
9 required. The Plaintiffs also cite a draft report provided to the Arizona Independent  
10 Redistricting Commission. The draft report speaks for itself and no response is required.  
11 The State Defendants deny all remaining allegations in Paragraph 38.

12 39. The State Defendants deny the allegations contained in Paragraph 39.

13 40. The State Defendants are without sufficient knowledge or information to  
14 form a belief as to the truth of the allegations contained in Paragraph 40, and so deny  
15 them.

16 41. The State Defendants are without sufficient knowledge or information to  
17 form a belief as to the truth of the allegations contained in Paragraph 41, and so deny  
18 them.

19 42. The State Defendants are without sufficient knowledge or information to  
20 form a belief as to the truth of the allegations contained in Paragraph 42, and so deny  
21 them.

22 43. The State Defendants are without sufficient knowledge or information to  
23 form a belief as to the truth of the allegation in Paragraph 43 concerning what “[d]ecades  
24 of” unidentified “research” have demonstrated, and so deny the allegation. The State  
25 Defendants deny all remaining allegations in Paragraph 43.

26 44. The State Defendants deny the allegations in Paragraph 44.

27 45. The State Defendants deny the allegations in Paragraph 45.

1 46. The State Defendants are without sufficient knowledge or information to  
2 form a belief as to the truth of the allegation contained in Paragraph 46, and so deny  
3 them.

4 47. The State Defendants deny the allegations contained in Paragraph 47.

5 48. Paragraph 48 asserts legal conclusions to which no response is required.

6 49. Paragraph 49 contains allegations related to what is “often preferred by  
7 voters[,]” as well as allegations about what effect vote centers have on voter  
8 participation. The State Defendants are without sufficient knowledge or information to  
9 form a belief as to the truth of those allegations, and so deny them. The remaining  
10 allegations in Paragraph 49 are legal conclusions to which no response is required. To  
11 the extent that Paragraph 49 contains other allegations, the State Defendants deny them.

12 50. The State Defendants deny the allegation that ballots are “rejected by the  
13 State.” The State Defendants deny that Arizona rejects more provisional ballots for OOP  
14 voting than almost any other state. The State Defendants are without sufficient  
15 knowledge or information to form a belief as to the truth of the remaining allegations  
16 contained in Paragraph 50, and so deny them.

17 51. Paragraph 51 asserts legal conclusions to which no response is required.

18 52. The State Defendants admit Maricopa County is by far the State’s most  
19 populous county. The State Defendants admit that the approximate numbers of  
20 provisional ballots noted in the second, seventh, and eighth sentences of paragraph 52 are  
21 accurate. The State Defendants are without sufficient knowledge or information to form  
22 a belief as to the truth of the remaining allegations contained in Paragraph 52, and so  
23 deny them.

24 53. The State Defendants are without sufficient knowledge or information to  
25 form a belief as to the truth of the allegations contained in Paragraph 53, and so deny  
26 them.

27 54. The allegations in paragraph 54 include conclusory statements inferred or  
28 drawn from the Plaintiffs’ expert witness’s report, which the State Defendants deny. The

1 State Defendants affirmatively allege that Plaintiffs’ expert witness’s report was based on  
2 insufficient facts and data, is the product of unreliable principles and methods, and does  
3 not reliably apply acceptable principles and methods to the facts of this case. The State  
4 Defendants are without sufficient knowledge or information to form a belief as to the  
5 truth of the allegations contained in Paragraph 54, and so deny them.

6 55. The State Defendants are without sufficient knowledge or information to  
7 form a belief as to the truth of the allegations contained in Paragraph 55.

8 56. The State Defendants deny the allegations in Paragraph 56. The State  
9 Defendants affirmatively allege that Plaintiffs’ expert witness’s report was based on  
10 insufficient facts and data, is the product of unreliable principles and methods, and does  
11 not reliably apply acceptable principles and methods to the facts of this case.

12 57. The State Defendants are without sufficient knowledge or information to  
13 form a belief as to the truth of the allegations contained in Paragraph 57, and so deny  
14 them.

15 58. The State Defendants deny the allegations in Paragraph 58.

16 59. The State Defendants deny that Arizona has experienced “systemic  
17 discrimination” “result[ing]” in the particular effects alleged in Paragraph 59. The State  
18 Defendants are without sufficient knowledge or information to form a belief as to the  
19 truth of the remaining allegations contained in Paragraph 59, and so deny them.

20 60. The State Defendants deny that there is “no evidence” of tampering or  
21 fraud related to ballot collection in Arizona. The remaining allegations in Paragraph 60  
22 are legal conclusions requiring no response. To the extent that Paragraph 60 asserts other  
23 allegations, the State Defendants deny them.

24 61. The State Defendants deny that Arizona has a “long history of  
25 discrimination,” and also deny that H.B. 2023 enhances and exacerbates any alleged  
26 discriminatory effects. The State Defendants further deny that “ballot collection and  
27 delivery” is “a means of voting” or that it has been necessary in order for minority voters  
28 to have an equal opportunity to participate in the political process and to elect

1 representatives of their choice. The allegation in Paragraph 61 regarding what time  
2 ballots must arrive to be counted is a conclusion of law that requires no response. The  
3 State Defendants are without sufficient knowledge or information to form a belief as to  
4 the truth of the remaining allegations contained in Paragraph 61, and so deny them.

5 62. The State Defendants admit that S.B. 1412, which, among other things,  
6 included a provision to protect the integrity of voted early ballots, was passed in 2011.  
7 The State Defendants are without sufficient knowledge or information to form a belief as  
8 to whether “ballot collection and delivery has become increasingly popular among  
9 Arizona’s minority voters,” and so deny the allegation. The State Defendants deny the  
10 remaining allegations contained in Paragraph 62.

11 63. The State Defendants admit that Senator Don Shooter sponsored S.B. 1412,  
12 and that Senator Shooter is a Republican from Yuma. The first sentence of Paragraph 63  
13 asserts a legal conclusion requiring no response. The State Defendants are without  
14 sufficient knowledge or information to form a belief as to the truth of the remaining  
15 allegations in Paragraph 63, and so deny them.

16 64. The State Defendants are without sufficient knowledge or information to  
17 form a belief as to the truth of the allegations in Paragraph 64, and so deny them.

18 65. The State Defendants admit that the Senate Judiciary Committee gave S.B.  
19 1412 a “do pass” recommendation, and also admits that six Republicans voted in favor of  
20 the recommendation, while two Democrats voted against it. The State Defendants are  
21 without sufficient knowledge or information to form a belief as to the truth of the  
22 remaining allegations in Paragraph 65, and so deny them.

23 66. The State Defendants admit that S.B. 1412 was amended, and that the bill  
24 was enacted and became law in 2011. The remaining allegations in Paragraph 66 state  
25 legal conclusions to which no response is required. To the extent that Paragraph 66  
26 asserts other allegations, the State Defendants deny them.

27 67. The allegations in Paragraph 67 are legal conclusions and do not require a  
28 response.

1           68.     The State Defendants admit that the Attorney General sought preclearance  
2 for A.R.S. § 16-1005(D), and that the Department of Justice asked for additional  
3 information to assist it with its evaluation of the law. To the extent that Paragraph 68  
4 quotes from a letter sent by the DOJ to the state of Arizona, that letter speaks for itself  
5 and no response is required.

6           69.     The allegations in Paragraph 69 contain a series of selectively edited quotes  
7 attributed to former State Elections Director Amy Bjelland (now Amy Chan). The State  
8 Defendants admit that the words attributed to Ms. Chan are recorded in a document, titled  
9 “Memorandum of Telephonic Communication” (the “Chan Memorandum”), and  
10 introduced into the Record in this matter as Doc. 161-1 at 111-12. The Chan  
11 Memorandum identifies the “Attorney/Analyst” (presumably the person who conducted  
12 the interview) as “John Powers.” The Chan Memorandum does not, however, identify  
13 for whom Mr. Powers worked, nor identify to whom the Chan Memorandum belonged.  
14 Further, the designations, “Department of Justice” or “DOJ,” do not appear in the Chan  
15 Memorandum. Accordingly, the State Defendants are without sufficient knowledge or  
16 information to form a belief as to the truth of the allegation that the quotations attributed  
17 to Ms. Chan were part of “a detailed file” that DOJ allegedly kept, and so deny the same.  
18 The State Defendants further note that, as already stated, the quotes attributed to Ms.  
19 Chan have been edited by the Plaintiffs, with selective use of ellipses. The State  
20 Defendants admit that the words appearing in the quoted material are also found in the  
21 Chan Memorandum, and in the same order. But the State Defendants deny that the  
22 Plaintiffs’ rendition of the quoted words fairly captures the meaning of the statements  
23 attributed to Ms. Chan in the Chan Memorandum, and so deny the same. Additionally, to  
24 the extent that Plaintiffs are alleging that the quotes attributed to Ms. Chan accurately  
25 reflect statements made by Senator Shooter or others, the State Defendants are without  
26 sufficient knowledge or information to form a belief as to the truth of such allegations  
27 and so deny them.  
28

1 Paragraph 69 also contains a quote, allegedly from the same “detailed file”  
2 kept by the DOJ, attributed to a “Yuma County Recorder’s Office employee.” This  
3 quotation, although edited with ellipses, accurately reflects the statements attributed to  
4 the “Yuma County Recorder’s Office employee” in a “Memorandum of Telephonic  
5 Communication” (the “Yuma County Employee Memorandum”), introduced into the  
6 Record as Doc. 161-1 at 104. But the State Defendants note that the Yuma County  
7 Employee Memorandum not only does not identify the agency whose employee  
8 conducted the interview, it also does not identify the name of the Yuma County  
9 Recorder’s Office employee who gave the interview responses. As such, the State  
10 Defendants have no way to verify that these statements were accurately recorded, and  
11 they should be stricken from the record. Regardless, the State Defendants are without  
12 sufficient knowledge or information to form a belief as to whether these statements were  
13 ever made, as well as the truth of the alleged statements, and so deny them.

14 70. Paragraph 70 contains a series of quotes attributed to Representative Ruben  
15 Gallego. The State Defendants admit that the words attributed to Rep. Gallego are  
16 recorded in a document, titled “Memorandum of Telephonic Communication” (the  
17 “Gallego Memorandum”), and introduced into the Record in this matter as Doc. 161-1 at  
18 100-01. The Gallego Memorandum identifies the “Attorney/Analyst” (presumably the  
19 person who conducted the interview) as “John Powers.” The Gallego Memorandum does  
20 not, however, identify for whom Mr. Powers worked, nor identify to whom the Gallego  
21 Memorandum belonged. Further, the designations, “Department of Justice” or “DOJ,” do  
22 not appear in the Gallego Memorandum. Accordingly, the State Defendants are without  
23 sufficient knowledge or information to form a belief as to the truth of the allegation that  
24 the quotations attributed to Rep. Gallego were part of “a detailed file” that DOJ allegedly  
25 kept, and so deny the same. The State Defendants deny any remaining allegations in  
26 paragraph 70.

27 71. The State Defendants admit that the Attorney General voluntarily withdrew  
28 A.R.S. § 16-1005(D), that Rep. Kimberly Yee introduced H.B. 2033, and that H.B. 2033

1 passed the legislature and was signed into law by Governor Brewer in May, 2015. The  
2 remaining allegations in Paragraph 71 assert legal conclusions requiring no response. To  
3 the extent that Paragraph 71 asserts other allegations, the State Defendants deny them.

4 72. The State Defendants admit that the Legislature enacted H.B. 2305, an  
5 omnibus election reform bill, in 2013 and subsequently repealed it. The State Defendants  
6 also admit that various groups sought a referendum on the law. The allegations in  
7 Paragraph 72 concerning the legal effect of H.B. 2305 assert legal conclusions, requiring  
8 no response. The State Defendants are without sufficient knowledge or information to  
9 form a belief as to the truth of the remaining allegations in Paragraph 72, and so deny  
10 them.

11 73. The State Defendants admit that H.B. 2023 was introduced by  
12 Representative Michelle Ugenti-Rita in January 2016. The remaining allegations in  
13 Paragraph 73 assert legal conclusions requiring no response. To the extent that there are  
14 other allegations in Paragraph 73 requiring a response, the State Defendants deny them.

15 74. The allegations in Paragraph 74 assert legal conclusions, which require no  
16 response. To the extent that there are other allegations in Paragraph 74 requiring a  
17 response, the State Defendants deny them.

18 75. The State Defendants admit that H.B. 2023 was heard by the House  
19 Elections Committee in January 2016, and that the Committee voted along party lines,  
20 four to two, to advance the bill to the floor for a vote. The State Defendants are without  
21 sufficient knowledge or information to form a belief as to the truth of the remaining  
22 allegations in Paragraph 75, and so deny them.

23 76. The State Defendants admit that Representative Ken Clark attempted to  
24 amend H.B. 2023, but deny that the date on which the attempt occurred was January 22,  
25 2016. The State Defendants are without sufficient knowledge or information to form a  
26 belief as to the truth of the remaining allegations in Paragraph 76, and so deny them.

27 77. The State Defendants admit that H.B. 2023 was passed by the House on  
28 February 4, 2016, and that the vote was thirty-four to twenty-three. The State Defendants

1 deny that every Republican but one voted in favor of the bill. The State Defendants also  
2 deny that all Democrats opposed the bill.

3 78. The State Defendants are without sufficient knowledge or information to  
4 form a belief as to the truth of the allegation concerning the race or ethnicity of certain  
5 members of the Senate. The State Defendants admit the remaining allegations in  
6 Paragraph 78.

7 79. The State Defendants are without sufficient knowledge or information to  
8 form a belief as to the truth of the allegations in Paragraph 79, and so deny them.

9 80. The State Defendants deny the allegations contained in Paragraph 80.

10 81. The State Defendants are without sufficient knowledge or information to  
11 form a belief as to the truth of the allegations in Paragraph 81, and so deny them.

12 82. The State Defendants are without sufficient knowledge or information to  
13 form a belief as to the truth of the allegations in Paragraph 82, and so deny them.

14 83. The State Defendants admit that H.B. 2023 passed the House on February  
15 4, 2016, by a vote of thirty-four to twenty-three, that it passed the Senate on March 9,  
16 2016, and that it was signed into law the same day. The State Defendants deny that every  
17 House Republican but one voted in favor of the bill, and that all House Democrats  
18 opposed the bill.

19 84. The State Defendants admit that H.B. 2023 passed the Senate on March 9.

20 85. The State Defendants admit that Governor Ducey signed H.B. 2023 into  
21 law. The State Defendants are without sufficient knowledge or information to form a  
22 belief as to how much time elapsed between the bill's passage by the Senate and the  
23 Governor's signing of it into law, and so deny the remaining allegation in Paragraph 85.

24 86. The State Defendants admit that H.B. 2023's effective date was August 6,  
25 2016. The State Defendants deny all remaining allegations in Paragraph 86.

26 87. Paragraph 87 contains allegations about the legal effect of H.B. 2023,  
27 which are legal conclusions requiring no response. The State Defendants deny all  
28 remaining allegations in Paragraph 87.

1 88. The State Defendants deny the allegations in Paragraph 88.

2 **Causes of Action**

3 **Count I**

4 89. The State Defendants reallege and incorporate by reference all prior and  
5 following responses to Plaintiffs' allegations as though fully set forth herein.

6 90. Paragraph 90 quotes language from the Voting Rights Act. That statute  
7 speaks for itself. Paragraph 90 also contains allegations asserting legal conclusions, to  
8 which no response is required. To the extent that there are additional allegations in  
9 Paragraph 90 requiring a response, the State Defendants deny them.

10 91. Paragraph 91 contains allegations concerning who is among the Plaintiffs'  
11 core membership, constituency, adherents, and supporters. The State Defendants are  
12 without sufficient knowledge or information to form a belief as to truth of those  
13 allegations, and so deny them. The State Defendants deny all remaining allegations in  
14 Paragraph 91.

15 92. The State Defendants deny the allegations in Paragraph 92.

16 93. The State Defendants deny the allegations in Paragraph 93.

17 94. The State Defendants deny the allegations in Paragraph 94.

18 **Count II**

19 95. The State Defendants reallege and incorporate by reference all prior and  
20 following responses to Plaintiffs' allegations as though fully set forth herein.

21 96. Paragraph 96 contains quotations from various court decisions. Those  
22 decisions speak for themselves. Paragraph 96 also contains allegations asserting legal  
23 conclusions, which require no response. To the extent that Paragraph 96 makes other  
24 allegations requiring a response, the State Defendants deny the same.

25 97. The State Defendants deny the allegations in Paragraph 97.

26 98. The State Defendants deny the allegations in Paragraph 98.

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**Count III**

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2 99. The State Defendants reallege and incorporate by reference all prior and  
3 following responses to Plaintiffs' allegations as though fully set forth herein.

4 100. Paragraph 100 contains allegations concerning who is among the Plaintiffs'  
5 core membership, constituency, adherents, and supporters. The State Defendants are  
6 without sufficient knowledge or information to form a belief as to truth of those  
7 allegations, and so deny them. The State Defendants deny all remaining allegations in  
8 Paragraph 100.

9 101. The State Defendants admit that racial discrimination has been an  
10 unfortunate factor in politics and law in every State in the country, including Arizona. To  
11 the extent that Plaintiffs' allegations in the first sentence of Paragraph 101 are intended to  
12 assert that minority voters will face higher burdens under H.B. 2023 than white voters as  
13 a result of racial discrimination, the State Defendants deny the same. The State  
14 Defendants deny all remaining allegations in Paragraph 101.

15 102. The State Defendants deny the allegations in Paragraph 102.

16 103. The State Defendants deny the allegations in Paragraph 103.

**Count IV**

17  
18 104. The State Defendants reallege and incorporate by reference all prior and  
19 following responses to Plaintiffs' allegations as though fully set forth herein.

20 105. Paragraph 105 contains allegations concerning who is among the Plaintiffs'  
21 core membership, constituency, adherents, and supporters. Paragraph 105 also contains  
22 allegations concerning what evidence and testimony the state Legislature considered and  
23 the Legislature's purpose in passing H.B. 2023. The State Defendants are without  
24 sufficient knowledge or information to form a belief as to the truth of these allegations,  
25 and therefore deny the same. The State Defendants deny all remaining allegations in  
26 Paragraph 105.

27 106. The State Defendants admit that any state actors who implement and  
28 enforce the provisions of H.B. 2023 will act under color of state law.

1 107. The State Defendants deny the allegations in Paragraph 107.

2 108. The State Defendants deny the allegations in Paragraph 108.

3 **Count V**

4 109. State Defendants deny the allegations in Paragraph 109.

5 110. Paragraph 110 asserts legal conclusions, requiring no response. Paragraph  
6 110 also includes quotations from various court decisions, which speak for themselves.  
7 To the extent that Paragraph 110 asserts other allegations requiring a response, the State  
8 Defendants deny them.

9 111. Paragraph 111 contains allegations concerning who is among the Plaintiffs'  
10 core membership, constituency, adherents, and supporters. The State Defendants are  
11 without sufficient knowledge or information to form a belief as to truth of those  
12 allegations, and so deny them. The State Defendants deny all remaining allegations in  
13 Paragraph 111.

14 112. Paragraph 112 contains allegations concerning the "purpose" and "mission"  
15 of the Plaintiffs and "groups" presumably associated with the Plaintiffs, and also contains  
16 allegations concerning who is among the Plaintiffs' core membership, constituency,  
17 adherents, and supporters. The State Defendants are without sufficient knowledge or  
18 information to form a belief as to truth of any of those allegations, and so deny them.  
19 The State Defendants deny all remaining allegations in Paragraph 112.

20 113. Paragraph 113 asserts legal conclusions, requiring no response. Paragraph  
21 113 also includes quotations from various court decisions, which speak for themselves.  
22 To the extent that Paragraph 113 asserts other allegations requiring a response, the State  
23 Defendants deny them.

24 114. The State Defendants deny the allegations in Paragraph 114.

25 115. The State Defendants deny the allegations in Paragraph 115.

26 116. The State Defendants deny the allegations in Paragraph 116.

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**AFFIRMATIVE DEFENSES**

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2 117. The Second Amended Complaint fails, in whole or in part, to state a claim  
3 upon which relief can be granted.

4 118. The Second Amended Complaint fails, in whole or in part, because  
5 Plaintiffs cannot obtain the requested relief because not all parties who enforce the laws  
6 at issue are before the Court.

7 119. The Second Amended Complaint fails, in whole or in part, because  
8 Plaintiffs have failed to take reasonable steps to avoid harm.

9 120. Additional facts may be revealed by discovery that support affirmative  
10 defenses presently available to but unknown by the State Defendants. Accordingly, the  
11 State Defendants hereby reserve the right to amend this Answer at a later time to assert  
12 any matters constituting an avoidance or affirmative defense, including those set forth in  
13 Fed. R. Civ. P. 8(c) and 12(b).

14 WHEREFORE, having fully answered the Second Amended Complaint, the State  
15 Defendants pray for relief as follows:

- 16 A. That the claims in the Second Amended Complaint be fully dismissed with  
17 prejudice;  
18 B. That Plaintiffs not receive the declaratory judgment requested in paragraph  
19 A of the Prayer for Relief;  
20 C. That the orders and injunctive relief requested in paragraph B of the Prayer  
21 for Relief be denied;  
22 D. That Plaintiffs not be awarded attorneys' fees and costs;  
23 E. That the State Defendants be awarded their taxable costs; and  
24 F. For such other and further relief as the court deems just and proper.  
25  
26  
27  
28

1 RESPECTFULLY SUBMITTED this 17th day of March, 2017.

2  
3 MARK BRNOVICH  
4 Attorney General

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 17, 2017, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a notice of electronic filing to the EM/ECF registrants.

s/ Maureen Riordan

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