Lauren Elliott Stine (AZ# 025083)
Coree E. Neumeyer (AZ# 025787)
QUARLES & BRADY LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004-2391
(602) 229-5200
Lauren.Stine@quarles.com
Coree.Neumeyer@quarles.com

Lee H. Rubin (Admitted PHV)
MAYER BROWN LLP
Two Palo Alto Square, Suite 300
3000 El Camino Real
Palo Alto, CA 94306-2112
(650) 331-2000
lrubin@mayerbrown.com

Courtney Hostetler (Admitted PHV)
John Bonifaz (Admitted PHV)
Ben Clements (Admitted PHV)
FREE SPEECH FOR PEOPLE
1320 Centre Street, Suite 405
Newton, MA 02459
(617) 249-3015
jbonifaz@freespeechforpeople.org
chostetler@freespeechforpeople.org
bclements@freespeechforpeople.org

Additional counsel listed on last page

Attorneys for Plaintiffs

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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota; Arizona Coalition for Change; Living United for Change in Arizona; and League of Conservation Voters, Inc. d/b/a Chispa AZ,

Plaintiffs,

and

DSCC and DCCC,

Plaintiff-Intervenors,

v.

Katie Hobbs, in her official capacity as Arizona Secretary of State; et al.,

Defendants,

and

RNC and NRSC,

Defendant-Intervenors.

Case No. CV-21-01423-PHX-DWL

PLAINTIFFS' MOTION TO COMPEL NON-PARTY THE REPUBLICAN PARTY OF ARIZONA TO COMPLY WITH THIRD-PARTY SUBPOENA TO PRODUCE DOCUMENTS PURSUANT TO FED. R. CIV. P. 37 AND 45

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Pursuant to the Court's July 7, 2022 Order (ECF No. 158), and Federal Rules of Civil Procedure 37 and 45, Plaintiffs Mi Familia Vota, Arizona Coalition for Change, Living United for Change in Arizona, and League of Conservation Voters, Inc. d/b/a Chispa AZ (jointly, "Plaintiffs"), hereby move the Court for an order compelling the Arizona Republican Party ("ARP") to produce documents responsive to the Rule 45 subpoena that Plaintiffs served on January 10, 2022 ("Subpoena"). *See* Exhibit 1. Plaintiffs have attached the information required by Local Civil Rule 37.1 as Exhibit 2.[1]

INTRODUCTION

Plaintiffs intend to show that, when enacting the vote-restriction legislation at issue here, the Arizona legislature acted for the purpose of burdening the rights of voters of color. ARP—especially its Chairwoman—was a vocal, public advocate for SB 1485 and other voting restrictions in the wake of the 2020 election. That publicly available evidence also suggests that the ARP worked hand in glove with elected officials, including Arizona legislators, in connection with this advocacy. Accordingly, Plaintiffs issued the Subpoena to ARP, principally seeking documents regarding SB 1485 and similar voting restrictions that the Arizona legislature recently considered (including SB 1003), the purpose for those restrictions, and any communications ARP officials or employees may have had with elected officials regarding them. This information is directly relevant to Plaintiffs' claims.[2]

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[1] All exhibits are attached to the Declaration of Robert Entwisle in Support of Motion to Compel the Arizona Republican Party to Comply With Subpoena *Duces Tecum* ("Entwisle Decl."), filed concurrently in support of this motion.

[2] The Subpoena was issued to ARP prior to the Court's June 24, 2022 Order (ECF No. 154) ("Motion to Dismiss Op.") and includes requests for documents relating to both SB 1485 and SB 1003 (together, the "Bills"). Although the Court dismissed Plaintiffs' challenges to SB 1003, and its *Anderson/Burdick* challenge to SB 1485, without prejudice, the Court gave Plaintiffs leave to amend, which Plaintiffs are still exploring. Regardless, both SB 1485 and SB 1003 were introduced and advanced through the legislature at almost the same time based on the same purported need to enhance election integrity in the wake of the 2020 presidential election. *See* Argument § I, *infra*. As a result, ARP documents relevant to the justifications for both Bills are relevant whether the Arizona legislature was motivated by pretextual rationales when considering various voting rights bills, including SB 1485, and

ARP has flatly refused to respond to the Subpoena. It has produced no documents. It has contended that certain Requests are vague or overbroad, but has ignored offers to address those concerns. And notwithstanding that its Chairwoman repeatedly advocated for SB 1485 and similar voting restrictions, ARP claims that it has been unable to locate *any* responsive documents other than (perhaps) documents publicly available on ARP's website. Given ARP's surprising representation, Plaintiffs asked ARP to describe the searches it conducted, *i.e.*, whose files were searched and in what manner. ARP has ignored that request entirely.

ARP claims that it does not need to respond to the Subpoena because of an associational privilege protected by the First Amendment. Crucially, however, the First Amendment privilege is far narrower than ARP claims, and ARP ignores its obligation to substantiate any privilege through, among other things, production of a privilege log, which it also refuses to provide.

Plaintiffs are cognizant that First Amendment concerns can apply in this context. But those concerns do not justify ARP's complete stonewalling of Plaintiffs' legitimate discovery requests that seek documents vital to Plaintiffs' claims. Accordingly, Plaintiffs respectfully request that the Court order ARP to (1) conduct a reasonable search for documents responsive to the Subpoena, (2) disclose what files are searched and in what manner (*e.g.*, through the use of search terms or otherwise) so that the parties can engage in a meaningful meet-and-confer process if necessary; (3) produce those responsive documents over which ARP does not claim any applicable privilege; and (4) provide a privilege log as to the balance.

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thus would be central to Plaintiffs' intentional discrimination claim directed at SB 1485. Accordingly, documents that relate to SB 1003 should be produced.

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BACKGROUND

A. The Subpoena

The Subpoena seeks important evidence related to the claims in this action. SB 1485 will purge voters from Arizona's permanent early voting list ("PEVL") if they do not "early vote"—that is, vote by mail or otherwise before election day— in two consecutive election cycles or if they do not respond to a notice. *See* Compl. ¶ 1. SB 1003 requires voters to cure an unsigned ballot by 7:00 PM on election day, even though ballots with other deficiencies are afforded a later cure deadline. *Id.* ¶¶ 1, 86, 88. The Complaint alleges that the Arizona legislature enacted both SB 1485 and 1003 to burden voters of color. For example, despite the fact that Latinos and African Americans make up less than 25% of registered voters in Arizona, they would account for almost 40% of removals from the PEVL. *Id.* at ¶ 77. Similarly, the Complaint alleges that SB 1003 will severely burden voters of color, voters who do not speak or read English, disabled voters, and voters who live on reservations, in part because those individuals are less likely than more affluent (predominantly white) voters to be able to travel to cure their ballots on tight deadlines. *Id.* ¶¶ 90-94. The Arizona legislature was aware of the disproportionate impact the SB 1485 and 1003 would have on voters of color, and its proffered reasons—a need to enhance election integrity and prevent voter fraud—do not withstand scrutiny. *Id.* ¶¶ 66-68.

The Subpoena seeks documents directly relevant to Plaintiffs' claims. Requests 1, 2, 6, 7, and 11 seek documents and communications regarding the purpose of the Bills; documents or communications addressing how the Bills or similar contemplated legislation would impact particular groups of voters, including those in protected classes; and documents which would shed light on how ARP and the Arizona Legislature understood such legislation would impact different demographic groups and individuals with different partisan affiliations. Requests 4, 5, 8, 9, 10, and 12 seek documents that are relevant to assessing what interests the legislation supposedly furthers and whether claims by supporters—including the ARP—that SB 1485 and similar legislation was necessary to

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prevent election fraud and promote election integrity were legitimate, or merely pretextual.[3] Finally, Request 3 seeks communications between ARP and elected officials or their agents relating to the PEVL and other aspects of Arizona's voting system.

As ARP social media accounts and similar publicly available information demonstrate, ARP was instrumental in advocating for SB 1485 or other voting restrictions in 2021. As discussed in more detail in Argument § I *infra*, ARP and its Chairwoman, Dr. Kelli Ward, made frequent public statements regarding the prevalence of election fraud in the wake of the 2020 election, lobbied for so-called "election integrity" bills generally, lobbied for SB 1485 specifically, and seemingly accused its sponsor of accepting a bribe when earlier restrictive voting legislation failed. As a result, ARP almost certainly has information in its possession that is responsive to the Subpoena.

B. ARP Refuses To Substantively Respond to the Subpoena

Plaintiffs served the Subpoena on ARP on January 10, 2022. *See* Exhibit 1. ARP responded on January 24, 2022, categorically refusing to produce responsive documents. *See* Exhibit 3. In its objections, ARP contended that the requested information was protected by a First Amendment associational privilege and that certain requests were vague,

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[3] Pretextual explanations for governmental decisions impacting minority groups, including the enactment of voting restrictions, are a classic sign, recognized by courts for decades, of invidious discriminatory intent. *See, e.g.*, Motion to Dismiss Op. at 58; *Arce v. Douglas*, 793 F.3d 968, 978 (9th Cir. 2015) ("[G]iven that 'officials acting in their official capacities seldom, if ever, announce on the record that they are pursuing a particular course of action because of their desire to discriminate against a racial minority,' we look to whether they have 'camouflaged' their intent."); *Harrington v. Harris*, 118 F.3d 359, 367 (5th Cir. 1997) ("A plaintiff may establish circumstantial evidence of intentional discrimination by demonstrating that a defendant's articulated nondiscriminatory rationale was pretextual."); *Smith v. Clarkton*, 682 F.2d 1055, 1064 (4th Cir. 1982) ("[I]ndividuals acting from invidious motivations realize the unattractiveness of their prejudices when faced with their perpetuation in the public record. It is only in private conversation, with individuals assumed to share their bigotry, that open statements of discrimination are made, so it is rare that these statements can be captured for purposes of proving racial discrimination in a case such as this.").

conclusory, or ill-defined or irrelevant to the litigation. *Id.* ARP did not produce a privilege log or otherwise identify any privileged, responsive documents that it refused to produce.

On February 7, the Parties met and conferred by telephone. Entwisle Decl. ¶ 5. During that discussion, counsel for ARP reiterated the claim that the Subpoena was overbroad. *Id.* ¶ 6. Counsel also represented that they had conducted some searches in response to certain requests, but claimed that ARP did not have documents responsive to these Requests regarding SB 1485 or SB 1003 other than those which may be publicly available. *Id.* ARP's counsel did not share details regarding the searches that they allegedly conducted, such as what files were searched and how. When asked whether ARP maintains demographic data on voters, ARP's counsel at first stated that the only data ARP had was the Secretary of State's voter file. *Id.* ¶ 7. But when pressed whether ARP augments data from the Secretary of State with additional demographic information—information that would allow ARP to analyze the impact of the Bills on voters of color or other groups—counsel could not answer whether ARP did so. *Id.* At the end of the call, ARP's counsel informed Plaintiffs that they would be unlikely to produce anything that is not publicly available and that they would not be willing to log any responsive documents to the extent they are privileged. *See* Joint Submission (ECF No. 156).

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Plaintiffs followed-up by letter on February 24, offering to hold several requests in abeyance while discovery is sought from other parties and offering to narrow the requests in various ways. *See* Exhibit 4. In addition, Plaintiffs asked ARP to describe the searches conducted to date and requested that ARP comply with the Federal Rules by logging any documents it intends to withhold as privileged. *Id.*

Counsel for ARP responded on March 22, but refused to comply with the Subpoena or support its privilege claims. *See* Exhibit 5. Plaintiffs responded on April 4, 2022. In an effort to reach a compromise without Court intervention, Plaintiffs explained that no absolute First Amendment privilege permits ARP to categorically refuse to respond to the subpoena or log documents over which it is claiming privilege, and asked ARP to describe

the searches it conducted before concluding that ARP had no non-public documents responsive to certain requests. *See* Exhibit 5. ARP did not substantively respond to Plaintiffs' April 4 letter. After further attempts by Plaintiffs to address these matters, Plaintiffs and ARP agreed to make a joint submission pursuant to the Court's December 15, 2021 Order (ECF No. 85), and also agreed to delay submission of a motion to compel in deference to the Court's ongoing consideration of the motion to dismiss. Exhibit 5. Plaintiffs now move to compel ARP's compliance with the Subpoena.

ARGUMENT

Federal courts construe discovery rules broadly and liberally. *See Herber v.* Lando, 441 U.S. 153, 177 (1979). Discovery extends to "any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1). In the District of Arizona, the subpoenaed party bears the burden to show that the subpoena should not be enforced. *See, e.g.*, *Century Int'l Arms, Inc. v. XTech Tactical LLC*, 2020 WL 224361, at *2 (D. Ariz. Jan. 15, 2020) (denying non-party's motion to quash subpoena because non-party failed to meet its burden to establish grounds for quashing).

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I. The Subpoena Is Appropriate.

The Subpoena seeks relevant information, is proportional to the needs of the case, and ARP can respond without undue burden.

First, the Subpoena seeks highly relevant information. The central factual questions in this case concern the *real* reasons the Arizona legislature enacted the legislation at issue. ARP is a natural source for this kind of information. After all, the legislation was introduced and supported by Republican legislators, and ARP was involved in pressing for this and similar legislation.

For instance, documents responsive to the Subpoena could provide insight into the motives of Republican legislators in enacting SB 1485, reveal their understanding of its likely impact on voters of color and other protected groups, and provide evidence crucial to Plaintiffs' claims related to evidence of intentional discrimination or motives to

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discriminate. Documents responsive to the Subpoena may also provide evidence relating to the State's interests in passing SB1485. For example, they may show whether there was a legitimate basis to claim that the Bills help with election integrity or whether such claims were simply pretextual.[4] Similarly, any such documents regarding SB 1003 would be similarly relevant to the intentional discrimination claim as to SB 1485, as the fact that the legislature was contemporaneously considering other legislation also designed to adversely impact minority groups is probative of the legislature's intent with respect to SB 1485. *See Tides v. The Boeing Co.*, 644 F.3d 809, 814 (9th Cir. 2011) ("If the statutory language is ambiguous, however, then we may refer to legislative history to discern congressional intent. . . . We may also look to other related statutes because statutes dealing with similar subjects should be interpreted harmoniously.') (internal citations and quotations omitted); *City of Carrollton Branch of the N.A.A.C.P. v. Stallings*, 829 F.2d 1547, 1152 (11th Cir. 1987) (speech during prior legislative session was evidence of intent to discriminate against black voters when similar bill was reintroduced in the next legislative term under same sponsorship).

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. ***Second***, there is substantial basis to believe that ARP has responsive documents. ARP and its Chairwoman, Dr. Kelli Ward, made frequent public statements regarding the prevalence of election fraud in the wake of the 2020 election.[5] For instance, relying on Newsmax and OANN, Dr. Ward claimed in a video on ARP's Twitter account shortly after the 2020 election that there were "almost innumerable episodes of potential fraud [and] voting irregularities," and that voter fraud "unquestionably exists and must be

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[4] Compl. ¶¶ 127-145.

[5] *See* Exhibit 6*, available at:* @AZGOP, Twitter (December 12, 2020, 3:05 PM), https://twitter.com/AZGOP/status/1337866132221378560; @AZGOP, Twitter, (December 30, 2020, 10:51 PM), https://twitter.com/AZGOP/status/1344506507078103041; Maria Polletta, *Last Election Challenge Pending in Arizona Courts Thrown Out by Federal Judge in Blistering Ruling, Arizona Republic*, https://www.azcentral.com/story/news/politics/elections/2020/12/09/federal-judge-throws-out-last-election-challenge-pending-arizona/6506927002/.

investigated."[6] In addition, posts on ARP's Twitter account called for new voting related legislation by the Arizona legislature, claiming that "there's no two things more important this legislative cycle than election integrity and opening back up our country/economy."[7]

Dr. Ward also publicly criticized representatives in the Arizona legislature when certain election related bills did not pass—including Senator Ugenti-Rita, who would later sponsor both of the Bills—seemingly implying that they were bribed.[8] ARP and its Chairwoman also said that SB 1485 is "important Election Integrity legislation" and that "any entity calling [election integrity] bills [voter suppression] is outing itself as being a []woke virtue signaler rather than a freedom-loving America Supporter."[9]

Third, the Subpoena is proportional to the needs of this case. *See Wells Fargo Bank NA, v. Wyo Tech Inv. Grp. LLC*, 385 F. Supp. 3d 863, 874 (D. Ariz. 2019) (enforcing a subpoena when the Court found that "the documents sought through the subpoena are relevant and proportional under Rule 26(b)(1)."). Courts have permitted comparable third-party discovery in voting rights cases like these. *See Fla. State Conference of Branches & Youth Units of the NAACP v. Lee*, 2021 WL 4891300, at *4 (S.D. Fla. Oct. 19, 2021) (compelling the Heritage Foundation to comply with a subpoena's document requests). Notably, the ARP has not even attempted to show that the Subpoena would actually subject it to undue burden or expense. *See Spider Labs Ltd. v. Doe*, 2020 WL 6262397, at *1 (D. Ariz. Oct. 22, 2020). ARP's only answer has been to claim that it should not have to comply

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[6] *See id, available at:* @AZGOP, Twitter, (Nov. 23, 2020 10:00 AM), https://twitter.com/AZGOP/status/1330903939135389697.

[7] *See id, available at:* @AZGOP, Twitter, (Jan. 11, 2021, 10:43 PM), https://twitter.com/AZGOP/status/1348853185998331905.

[8] *See id, available at:* @kelliwardaz, Twitter, (March 14, 2022, 6:12 PM), https://twitter.com/kelliwardaz/status/1503509426224869376 ("Keep your eyes open AFTER the legislative session to see what rewards Boyer and Ugenti-Rita get from the swamp for killing #ElectionIntegrity bills in the Senate.").

[9] *See id, available at: e.g.*, @AZGOP, Twitter (April 20, 2021, 11:25 AM), https://twitter.com/AZGOP/status/1384543727486570499; @kelliwardaz, Twitter (April 7, 2021 3:28 PM), https://twitter.com/kelliwardaz/status/1379893898751975436.

because it does not "have anything to do with this case." Joint Submission at 4 (ECF No. 156). While ARP claims to have nothing to do with this case, its position is undermined by the fact that other GOP organizations have intervened in this matter. And, as demonstrated above, ARP and its Chair have repeatedly made statements that refute such claims. Moreover, Plaintiffs have attempted in good faith to reduce any undue burden on ARP. For example, while Plaintiffs believe that their requests were reasonably tailored to avoid being overly broad or unduly burdensome, they offered to narrow their requests to ARP in the above discussed letter sent on February 24, 2022 to address ARP's concerns. Exhibit 4. ARP never substantively responded to that offer, other than the categorically refuse to respond to the Subpoena.

II. ARP's Non-Constitutional Grounds For Refusing To Respond To The Subpoena Are Insubstantial.

ARP advances two main non-constitutional objections to the Subpoena. Neither is availing.

First, ARP has suggested that it does not have *any* non-public responsive documents, such as non-public emails, analyses, or text messages, that are responsive to the requests and that relate to SB 1485 or SB 1003. Given the extensive public statements by ARP and its Chairwoman on these issues, and SB 1485 specifically, it is (at best) highly unlikely that ARP has *no* responsive documents other than the few public documents it has alluded to in the meet-and-confer process. Nor are Plaintiffs required to take ARP's assertions at face value. Requiring ARP to provide additional detail about its search methodology imposes virtually no burden on ARP and will ensure that Plaintiffs are not deprived of potentially critical discovery because of an inadequate search for responsive material. *See In re Furstenberg Fin. Sas & Marc Bataillon*, 2017 WL 6560357, at *9 (S.D. Fla. Oct. 30, 2017) (concluding that "[a]pplicants have established that [the non-party's] discovery has been deficient, particularly in light of [its] reluctance to narrow the document requests under the subpoena or to provide any meaningful details about its search methodologies despite

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repeated appeals."); *Apple, Inc. v. Samsung Elecs. Co.*, 2013 WL 1942163, at *3 (N.D. Cal. May 9, 2013) (holding that once a third party becomes "subject to a subpoena" it has "obligations … to participate in transparent and collaborative discovery").

Second, ARP has claimed that the information sought is no longer relevant due to the holding in *Brnovich v. Democratic National Committee*, 141 S. Ct. 2321 (2021). ARP is incorrect. As the Court confirmed in its recent motion to dismiss opinion and Plaintiffs' explained in their related briefing, the Supreme Court *reaffirmed* the *Arlington Heights* test for intentional discrimination in *Brnovich*. Motion to Dismiss Op. at 53; ECF No. 92 at 6, 12. In *Arlington Heights*, the Court stated that "determining whether invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available." *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977). Documents responsive to this Subpoena would, at the very least, bear on whether Republican officials understood the legislation would disproportionately impact voters of color and whether their election integrity claims were pretextual. Both categories of documents are central to the question whether the Court can infer discriminatory intent.[10] And, of course, any communications between ARP officials and members of the Arizona legislature are plainly relevant, as *Arlington Heights* requires assessing contemporaneous statements of legislators when evaluating whether the evidence as a whole warrants inferring discriminatory purpose. *Arlington Heights*, 429 U.S. at 268; *see also* Motion to Dismiss Op. at 55 ("the legislative history of a statute, 'especially where there are contemporary statements by members of the decisionmaking body,' is sometimes probative when evaluating a discriminatory purpose claim.") (quoting *Arlington Heights*, 429 U.S. at 266).

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[10] *See* Motion to Dismiss Op. at 52-53 (denying dismissal in part because "Plaintiffs plausibly allege that voters of color will be disproportionately affected by S.B. 1485"), at 58 ("If that justification was pretextual, as Plaintiffs allege, this can plausibly be viewed as circumstantial evidence supporting Plaintiffs' contention that one of the true, unexpressed motivations for the law was discriminatory.").

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III. The First Amendment "Associational Privilege" Does Not Allow ARP to Refuse to Comply with the Subpoena

ARP also asserts a constitutional objection to the Subpoena—but this objection is equally unavailing. The party seeking to assert a First Amendment associational privilege must "make a *prima facie* case showing of arguable First Amendment privilege." *Nat'l Abortion Fed'n v. Ctr. for Med. Progress*, 2015 U.S. App. LEXIS 23397, at *5 (9th Cir. Dec. 3, 2015); *Brock v. Local 375, Plumbers Int'l Union of Am.*, 860 F.2d 346, 349-50 (9th Cir. 1988). In the Ninth Circuit, making a *prima facie* showing "requires appellants to demonstrate that enforcement of the subpoenas will result in (1) harassment, membership withdrawal, or discouragement of new members, or (2) other consequences which objectively suggest an impact on, or 'chilling' of, the members' associational rights." *Id.* at 350; *see also Fla. State Conference of Branches & Youth Units of the NAACP v. Lee*, 2021 WL 4891300, at *4 (S.D. Fla. Oct. 19, 2021) (explaining that a *prima facie* showing requires demonstrating that there is a '"reasonable probability that that the compelled disclosure … will subject them to threats, harassment, or reprisals from wither Government officials or private parties.'") (citing *Buckley v. Valeo*, 424 U.S. 1, 74 (1976)). ARP, however, has failed to identify, even in broad strokes, what responsive documents exist whose disclosure could implicate the First Amendment. It thus cannot even begin to meet its burden to show a *prima facie* case.

Even if a party can make a *prima facie* showing—and ARP has not—disclosure will still be compelled when the party seeking disclosure demonstrates "an interest in obtaining the disclosures it seeks … which is sufficient to justify the deterrent effect on … on the free exercise" of the constitutionally protected right. *Nat'l Abortion Fed'n*, 2015 U.S. App. LEXIS 23397, at *5 (internal citations and quotations omitted); *NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 463 (1958). Plaintiffs have a compelling need for the information sought by the Subpoena. By refusing to comply based on purported First Amendment concerns, ARP will deprive Plaintiffs of evidence that could very well be crucial to

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vindicating an equally weighty constitutional right: the right to vote. *See supra* Argument § II; *Anderson v. Celebrezze*, 460 U.S. 780, 787 (1983); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *see also Wesberry v. Sanders*, 376 U.S. 1, 17 (1964) (describing voting rights as "precious in a free country," in part because they preserve all other rights).

To the extent the Court has any doubt on this score, it can require ARP to submit responsive documents over which it claims privilege to the Court for *in camera* review. The Court would then be in a position to evaluate the relative importance of the information to Plaintiffs' case and balance that against any First Amendment interests. But neither Plaintiffs nor the Court can undertake that analysis without understanding what specific documents ARP has that it claims are privileged. Indeed, courts routinely require privilege logs when documents are withheld on the basis of the associational and similar privileges. *See Ohio Org. Collaborative v. Husted*, 2015 WL 7008530, at *1 (S.D. Ohio Nov. 12, 2015) (associational privilege); *Raleigh Wake Citizens Ass'n v. Wake Cty. Bd. of Elections*, 2015 WL 7854590, at *1 (E.D.N.C. Dec. 3, 2015) (legislative privilege); *Bethune-Hill v. Va. State Bd. of Elections*, 114 F. Supp. 3d 323, 345 (E.D. Va. 2015) (requiring more detailed descriptions for documents allegedly protected by the legislative privilege, and requiring *in camera* review.). And, of course, ARP has no basis to withhold documents where no actual privilege applies, and a blanket privilege assertion cannot prevent the production of such materials. Non-privileged documents should be produced if responsive to the Subpoena.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter an order to enforce the Subpoena and compel the Republican Party of Arizona to (1) conduct a reasonable search for documents responsive to the Subpoena; (2) disclose what files are searched and in what manner (e.g., through the use of search terms or otherwise); (3) produce those responsive documents over which the ARP does not claim any applicable privilege; and (4) provide a privilege log as to the balance.

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Respectfully submitted,

/s/ Lauren Elliott Stine
Lauren Elliott Stine (AZ #025083)
Coree E. Neumeyer (AZ# 025787)
QUARLES & BRADY LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004-2391
(602) 229-5200
Lauren.Stine@quarles.com
Coree.Neumeyer@quarles.com

Lee H. Rubin (Admitted PHV)
MAYER BROWN LLP
Two Palo Alto Square, Suite 300
3000 El Camino Real
Palo Alto, CA 94306-2112
(650) 331-2000
lrubin@mayerbrown.com

Courtney Hostetler (Admitted PHV)
John Bonifaz (Admitted PHV)
Ben Clements (Admitted PHV)
FREE SPEECH FOR PEOPLE
1320 Centre Street, Suite 405
Newton, MA 02459
(617) 249-3015
chostetler@freespeechforpeople.org
jbonifaz@freespeechforpeople.org
bclements@freespeechforpeople.org

Gary A. Isaac (Admitted PHV)
Daniel T. Fenske (Admitted PHV)
Jed W. Glickstein (Admitted PHV)
MAYER BROWN LLP
71 S. Wacker Drive
Chicago, IL 60606
(312) 782-0600
gisaac@mayerbrown.com
dfenske@mayerbrown.com
jglickstein@mayerbrown.com

Rachel J. Lamorte (Admitted PHV)
MAYER BROWN LLP
1999 K Street NW
Washington, DC 20006
(202) 362-3000
rlamorte@mayerbrown.com

Attorneys for Plaintiffs

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1 **CERTIFICATE OF SERVICE**

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3 I hereby certify that on July 14, 2022, a copy of the foregoing **PLAINTIFFS'**
4 **MOTION TO COMPEL NON-PARTY THE REPUBLICAN PARTY OF ARIZONA**
5 **TO COMPLY WITH THIRD-PARTY SUBPOENA TO PRODUCE DOCUMENTS**
6 **PURSUANT TO FED. R. CIV. P. 37 AND 45**was filed electronically with the Arizona
7 District Court Clerk's Office using the CM/ECF System for filing, which will provide a
8 Notice of Electronic Filing to all CM/ECF registrants, and served via U.S. Mail and E-mail
9 on the following recipients:

10 John D. Wilenchik
11 Wilenchik & Bartness, P.C.
The Wilenchik & Bartness Building
12 2810 North Third Street
Phoenix, AZ 85004
13 Jackw@wb-law.com

14

15

16 /s/ Debra L. Hitchens
Employee of Quarles & Brady LLP

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