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14  
15 **UNITED STATES DISTRICT COURT**  
16 **DISTRICT OF ARIZONA**

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

21 Plaintiffs,

22 and

23 DSCC and DCCC,

24 Plaintiff-Intervenors,

25 v.

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

28 Defendants,

and

RNC and NRSC,

Defendant-Intervenors.

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

**PLAINTIFFS' UNOPPOSED  
MOTION TO EXTEND THE  
DEADLINE FOR COMPLETION OF  
FACT DISCOVERY (FIRST  
REQUEST)**

**(EXPEDITED RULING  
REQUESTED)**

1 Plaintiffs Mi Familia Vota, Arizona Coalition for Change, Living United for Change  
2 in Arizona, and League of Conservation Voters, Inc. d/b/a Chispa AZ (jointly, “Plaintiffs”),  
3 hereby move pursuant to Federal Rule of Civil Procedure 16(b) and Local Rule 7.3 for an  
4 unopposed six-month extension of time to complete fact discovery. Pursuant to this Court’s  
5 Scheduling Order, the fact discovery deadline is currently set for November 18, 2022. *See*  
6 ECF No. 85. This is Plaintiffs’ first request to extend the deadline. Good cause exists for  
7 this request, as set forth in greater detail below. This request is unopposed.

8 Plaintiffs have been diligent in pursuing good-faith discovery, having timely served  
9 document requests on the defendant County Recorders, the Arizona Secretary of State, the  
10 Republican Party Intervenors, and the Arizona Attorney General, and subpoenas for  
11 documents to third-parties the Republican Party of Arizona (ARP), the Arizona Legislature,  
12 and certain individual Arizona legislators (collectively the “Discovery Targets”). To date,  
13 Plaintiffs have obtained over 30,000 documents in response to discovery requests, and have  
14 reviewed many of the documents produced to date. However, as further discussed below, it  
15 has become clear that, despite frequent communications and meet and confers, more time  
16 is needed for certain Discovery Targets to fulfill their document discovery obligations.  
17 Moreover, particularly given the 10-deposition limit the Court has presumptively set for  
18 Plaintiffs, as a practical matter, Plaintiffs have deferred deposition discovery until critically  
19 important document discovery is completed. Accordingly, Plaintiffs respectfully request a  
20 six-month extension of the schedule to complete fact discovery.

21 *First*, third-party subpoena recipients the Arizona State Legislature and the  
22 individual legislators have withheld essentially *all* responsive documents on the grounds of  
23 privilege. Although they produced a privilege log on September 16, 2022, that privilege log  
24 collectively contains nearly 30,000 entries. These subpoena recipients also have yet to  
25 complete their review of text messages. Plaintiffs are in the process of reviewing the  
26 legislators’ privilege log and are likely to identify deficiencies requiring remedial action.  
27 This process will take at least the next several weeks. While Plaintiffs hope they can resolve  
28 any dispute over legislative privilege without Court intervention, it is likely that Plaintiffs

1 will seek relief with respect to at least some of the assertions of privilege, which cannot  
2 practically be resolved before November 18, much less in time to conduct depositions.

3       *Second*, the ARP has yet to comply in *any* material respect with the Rule 45 subpoena  
4 Plaintiffs served on it more than *eight months ago*, on January 10, 2022. *See* ECF No. 161.  
5 The ARP categorically refuses to produce documents, or even provide a privilege log  
6 supporting its assertions of privilege under the First Amendment. *Id.* Because of the ARP's  
7 intransigence, Plaintiffs filed a motion to compel ARP's compliance. *Id.* That motion is  
8 still pending, and its resolution is necessary for discovery to move forward.

9       *Third*, the Maricopa County Recorder is still reviewing for production  
10 communications responsive to four requests for production, including communications  
11 related to actual or potential changes to Arizona law or regulations on voting (such as those  
12 containing analysis of whether the changes would disproportionately impact particular  
13 groups of voters) and communications with elected officials (such as state legislators).  
14 Maricopa County currently plans to complete its production (save for its supplemental data  
15 production) by October 25. But even if it does so, Plaintiffs will need time to process and  
16 review those materials.

17       The outstanding documents are directly relevant to Plaintiffs' claims. The documents  
18 sought from the individual legislators and ARP are crucial to Plaintiffs' intentional  
19 discrimination claims under the *Arlington Heights* test for intentional discrimination,  
20 because *Arlington Heights* calls for assessing, among other things, contemporaneous  
21 statements of legislators when evaluating whether the evidence, as a whole, warrants the  
22 inference of discriminatory purpose. *See Vill. of Arlington Heights v. Metro. Hous. Dev.*  
23 *Corp.*, 429 U.S. 252, 266 (1977), ECF No. 154 at 55-57. The documents sought from  
24 Maricopa County may include communications with individual legislators—going directly  
25 to legislative intent—but regardless are crucial to ascertaining the impact of the challenged  
26 law on minority groups, which under *Arlington Heights* may be probative of discriminatory  
27 purpose. *Id.* at 266. For the reasons discussed above, discovery cannot reasonably be  
28 completed by the current discovery deadline, November 18, 2022, and should be extended

1 by six months.

2 On September 30, 2022, counsel for Plaintiffs informed counsel for all other parties  
3 that they intended to seek a six month extension of the deadline for the completion of fact  
4 discovery. Counsel for the Republican Party Intervenors, the Secretary of State, the  
5 Attorney General, and the County Recorders for Maricopa, Apache, Yuma, Mohave, and  
6 Pima counties indicated that they do not oppose this request. Plaintiff-Intervenors join in  
7 Plaintiffs' request. The other parties did not respond. No party indicated that they oppose  
8 this request.

9 **CONCLUSION**

10 For the foregoing reasons, Plaintiffs respectfully request that the Court find good  
11 cause and grant an unopposed six month extension of the deadline for completion of fact  
12 discovery. A proposed order is attached.

13 Dated: October 7, 2022

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 7, 2022, a copy of Plaintiffs' Unopposed Motion to Extend the Deadline for Completion of Fact Discovery was filed electronically with the Arizona District Court Clerk's Office using the CM/ECF System for filing, which will provide a Notice of Electronic Filing to all CM/ECF registrants.

/s/ Debra L. Hitchens

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