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18 **UNITED STATES DISTRICT COURT**
19 **DISTRICT OF ARIZONA**

20 MI FAMILIA VOTA, et al.

21 Plaintiffs,

22 v.

23 ADRIAN FONTES, in his official capacity as
24 Arizona Secretary of State, et al.,

25 Defendants,

26 and

27 Speaker of the House Ben Toma and Senate
28 President Warren Petersen,

Intervenor-Defendants.

Case No. 22-00509-PHX-SRB
(Lead)

**CONTROVERTING STATEMENT OF
FACTS IN SUPPORT OF NON-U.S.
PLAINTIFFS' OPPOSITION TO
DEFENDANTS ATTORNEY
GENERAL KRIS MAYES AND STATE
OF ARIZONA'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AND INTERVENOR-DEFENDANT
RNC'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

1 LIVING UNITED FOR CHANGE IN ARIZONA, et
2 al.,

3 Plaintiffs,

4 v.

5 ADRIAN FONTES, in his official capacity as
6 Arizona Secretary of State, et al.,

7 Defendant,

8 and

9 STATE OF ARIZONA, et al.,

10 Intervenor-Defendants,

11 and

12 Speaker of the House Ben Toma and Senate
13 President Warren Petersen,

14 Intervenor-Defendants.

15 PODER LATINX, et al.,

16 Plaintiffs,

17 v.

18 ADRIAN FONTES, in his official capacity as
19 Arizona Secretary of State, et al.

20 Defendants,

21 and

22 Speaker of the House Ben Toma and Senate
23 President Warren Petersen,

24 Intervenor-Defendants.

25 UNITED STATES OF AMERICA,

26 Plaintiff,

27 v.

28 STATE OF ARIZONA, et al.,

Defendants,

and

Speaker of the House Ben Toma and Senate
President Warren Petersen,

Intervenor-Defendants.

Consolidated Cases

No. CV-22-00519-PHX-SRB

No. CV-22-01003-PHX-SRB

No. CV-22-01124-PHX-SRB

No. CV-22-01369-PHX-SRB

No. CV-22-01381-PHX-SRB

No. CV-22-01602-PHX-SRB

No. CV-22-01901-PHX-SRB

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 DEMOCRATIC NATIONAL COMMITTEE, et al.,
2 Plaintiffs,

3 v.

4 ADRIAN FONTES, in his official capacity as
5 Arizona Secretary of State, et al.,
6 Defendants,

7 and

8 REPUBLICAN NATIONAL COMMITTEE,
9 Intervenor-Defendant,

10 and

11 Speaker of the House Ben Toma and Senate
12 President Warren Petersen,
13 Intervenor-Defendants.

14 ARIZONA ASIAN AMERICAN NATIVE
15 HAWAIIAN AND PACIFIC ISLANDER FOR
16 EQUITY COALITION,

17 Plaintiff,

18 v.

19 ADRIAN FONTES, in his official capacity as
20 Arizona Secretary of State, et al.,
21 Defendants,

22 and

23 Speaker of the House Ben Toma and Senate
24 President Warren Petersen,
25 Intervenor-Defendants.

26 PROMISE ARIZONA, et al.,
27 Plaintiffs,

28 v.

ADRIAN FONTES, in his official capacity as
Arizona Secretary of State, et al.,
Defendants,

and

Speaker of the House Ben Toma and Senate
President Warren Petersen,

Intervenor-Defendants.

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1 Under Local Civil Rule 56.1(b), Plaintiffs in this consolidated matter except the United
2 States (collectively “the non-U.S. Plaintiffs”) submit the following controverting statements
3 of fact in support of their Oppositions to Defendants’ and Intervenor Defendant’s statements
4 of fact in support of their Motions for Partial Summary Judgment, as well as additional
5 statements of fact that preclude summary judgment.

6 **I. Controverting Responses to Defendants’ and Intervenor-Defendant RNC’s**
7 **Statements of Fact**

8 **A. Controverting Responses to Defendants State of Arizona and Attorney**
9 **General Kris Mayes’ Statements of Fact**

10 1. On March 30, 2022, the Arizona Legislature enacted and the Governor signed House
11 Bill 2492 into law. See Bill Status Inquiry: HB 2492, available at
12 <https://apps.azleg.gov/BillStatus/BillOverview/76970> (last accessed May 4, 2023). A copy of
13 HB 2492 is attached hereto as Exhibit A.

14 **Non-U.S. Plaintiffs’ Response:** Undisputed.

15 2. On July 6, 2022, the Arizona Legislature enacted and the Governor signed House Bill
16 2243 into law. See Bill Status Inquiry: HB 2243, available at
17 <https://apps.azleg.gov/BillStatus/BillOverview/76698> (last accessed May 4, 2023). A copy of
18 HB 2243 is attached hereto as Exhibit B.

19 **Non-U.S. Plaintiffs’ Response:** Undisputed.

20 3. The U.S. Election Assistance Commission created the National Voter Registration
21 Application Form under the authority conferred by the National Voter Registration Act
22 (“NVRA”), 52 U.S.C. § 20508.

23 **Non-U.S. Plaintiffs’ Response:** Undisputed.

24 4. A current copy of the National Voter Registration Application Form, as well as its
25 accompanying General Instructions, Application Instructions, and State-specific Instructions,
26 are available at

27 https://www.eac.gov/sites/default/files/eac_assets/1/6/Federal_Voter_Registration_ENG.pdf,

28

1 and are attached hereto as Exhibit C.

2 **Non-U.S. Plaintiffs' Response:** Undisputed.

3 5. The General Instructions explain how to submit an application—namely by submitting
4 a completed National Voter Registration Application Form either in person or by mail:

5 **How to Submit Your Application**

6 Mail your application to the address listed under your State in the State
7 Instructions. Or, deliver the application in person to your local voter registration
8 office. The States that are required to accept the national form will accept copies
of the application printed from the computer image on regular paper stock,
signed by the applicant, and mailed in an envelope with the correct postage.

9 *See* Exhibit C at 2.

10 **Non-U.S. Plaintiffs' Response:** Undisputed.

11 6. A copy of the Arizona Voter Registration Form and its instructions can be accessed at
12 https://azsos.gov/sites/default/files/voter_registration_form.pdf and is attached hereto as
13 Exhibit D.

14 **Non-U.S. Plaintiffs' Response:** Disputed. The cited and attached Form is the version
15 that was operative between April 2019 and September 2022. *See* Defs.' Ex. D, Doc. 365-1 at
16 53 (noting revision in April 2019); **Declaration of Nicole Hansen, Ex. 9** (attaching September
17 2022 revised Form) (available at
18 https://azsos.gov/sites/default/files/voter_registration_form_092222-standard.pdf).

19 7. Since 2003, Arizona has placed a check box to affirm U.S. citizenship on the Arizona
20 Voter Registration Form. *See* 2003 Ariz. Legis. Serv. Ch. 260 (S.B. 1075) (West) (revising
21 A.R.S. § 16-152(A)(14)), attached hereto as Exhibit E.

22 **Non-U.S. Plaintiffs' Response:** Undisputed.

23 8. In 2004, Arizona law specified that checking the box to affirm an applicant's U.S.
24 citizenship was a condition for being "presumed to be properly registered." *See* 2004 Ariz.
25 Legis. Serv. Ch. 184 (S.B. 1250) (West) (revising A.R.S. § 16-121.01(A)), attached hereto as
26 Exhibit F.

27 **Non-U.S. Plaintiffs' Response:** Undisputed that the prior version of A.R.S. § 16-
28

1 121.01(A) stated in part that “[a] person is presumed to be properly registered to vote on
2 completion of a registration form as prescribed by section 16–152 that contains at least the
3 name, the residence address or the location, the date of birth and the signature or other
4 statement of the registrant ... and a checkmark or other appropriate indicator that the person
5 answered ‘yes’ to the question regarding citizenship.” Defs.’ Ex. F, Doc. 365-1 at 73.

6 9. Since 1979, Arizona’s voter registration form has contained a space for prospective
7 voters to write their “state or country of birth.” *See* 1979 Ariz. Sess. Laws Ch. 209, at 823
8 (codified then at A.R.S. § 16-152(A)(9)), attached hereto as Exhibit G.

9 **Non-U.S. Plaintiffs’ Response:** Undisputed.

10 10. A copy of the U.S. Department of State’s Foreign Affairs Manual is available at
11 <https://fam.state.gov/fam/08fam/08fam040304.html> (last updated Apr. 19, 2022), and is
12 attached hereto as Exhibit H.

13 **Non-U.S. Plaintiffs’ Response:** Undisputed.

14 11. The U.S. Department of State’s Foreign Affairs Manual states: “[T]he United States
15 will not issue a U.S. passport with non POB [Place of Birth] listing. The POB designation is
16 an integral part of establishing an individual’s identity. It distinguishes that individual from
17 other persons with similar names and/or dates of birth, and helps identify claimants attempting
18 to use another person’s identity.” Exhibit H at 8 FAM 403.4-6(A).

19 **Non-U.S. Plaintiffs’ Response:** Undisputed.

20 12. The following states have a space on their voter registration applications for place of
21 birth: Alabama, Louisiana, Missouri, Nebraska, Nevada, North Carolina, Tennessee, Utah, and
22 Vermont. The voter registration applications for these states are attached hereto in alphabetical
23 order as Exhibit I.

24 **Non-U.S. Plaintiffs’ Response:** Undisputed.

25 13. The following states appear to require an applicant state place of birth in order to be
26 registered: Alabama (see form itself in Exhibit I), Nevada (see form itself in Exhibit I),
27 Tennessee (Tenn. Code Ann. § 2-2-116), and Vermont (17 V.S.A. § 2145).

1 **Non-U.S. Plaintiffs' Response:** Disputed that any of these states require place of birth
2 in order to be registered. *See infra* Section II. Non-U.S. Plaintiffs' Statements of Additional Facts
3 Pursuant to L. Civ. R. 56.1 at ¶ 10.

4 14. On December 30, 2022, Kori Lorick from the Secretary of State's office sent an email
5 containing a chart explaining documents that could constitute proof of location of residence.
6 A copy of that chart is attached hereto as Exhibit J.

7 **Non-U.S. Plaintiffs' Response:** Undisputed that the chart attached in Defendants'
8 Exhibit J contains documents that the Secretary indicates would be accepted as sufficient proof
9 of location of residence to satisfy the challenged H.B. 2492 documentary proof of location of
10 residence requirement. Disputed to the extent that Defendants suggest that the documents
11 listed in the chart provide an exhaustive list of sufficient proof of location of residence.

12 15. The Secretary's chart recognizes that tribal members may demonstrate proof of
13 residence through a tribal identification card without a traditional street address, consistent
14 with a stipulation regarding tribal documentation in *Gonzalez v. Arizona*, No. CV 06-1268-
15 PHX-ROS, Doc. 749 (D. Ariz. April 18, 2008). *See* Exhibit J, identified above.

16 **Non-U.S. Plaintiffs' Response:** Undisputed that the Secretary's chart indicates that
17 tribal members may demonstrate proof of location of residence through a tribal identification
18 card without a traditional street address, consistent with the *Gonzalez v. Arizona* stipulation.
19 *See* No. CV 06-1268-PHX-ROS, Doc. 749 (D. Ariz. April 18, 2008). Disputed to the extent
20 that Defendants suggest that other types of tribal identification would be insufficient to satisfy
21 the challenged H.B. 2492 documentary proof of location of residence requirement.

22
23 **B. Controverting Responses to Intervenor-Defendant Republican National**
24 **Committee's Statements of Fact**

25 1. The Arizona Legislature passed House Bill 2492, and the Governor signed it into law
26 on March 30, 2022. A copy is attached as Exhibit A.

27 **Non-U.S. Plaintiffs' Response:** Undisputed.
28

1 2. The Arizona Legislature passed House Bill 2243, and the Governor signed it into law
2 on July 6, 2022. A copy is attached as Exhibit B.

3 **Non-U.S. Plaintiffs' Response:** Undisputed.

4 3. The U.S. Election Assistance Commission issues a federal form for voter registration.
5 That form and the accompanying registration is attached as Exhibit C.

6 **Non-U.S. Plaintiffs' Response:** Undisputed.

7
8 **II. Non-U.S. Plaintiffs' Statements of Additional Facts Pursuant to L. Civ. R. 56.1**

9 1. A copy of the current Arizona State Voter Registration Form and its instructions, as
10 revised September 2022, can be accessed at
11 https://azsos.gov/sites/default/files/voter_registration_form_092222-standard.pdf and is
12 attached at **Hansen Decl., Ex. 9**.

13 2. The National Mail Voter Registration Form as promulgated by the U.S. Election
14 Assistance Commission includes its Voter Registration Application, General Instructions,
15 Application Instructions, and State Instructions. See Defs.' Ex. C, Doc. 365-1 at 23-49.

16 3. A copy of the reporter's transcript of proceedings for the scheduling conference held in
17 this consolidated case on March 23, 2023 is attached to **Declaration of Hayden Johnson, Ex.**
18 **31.**¹ At the March 23, 2023 scheduling conference in this case, this Court set a schedule for
19 to allow for early summary judgment motions prior to the close of discovery on "discrete legal
20 issues" that do not require a complete factual record. *Id.* at 41.

21 4. The Arizona Secretary of State, the State's Chief Election Official, has admitted that
22 "the Checkmark Requirement is immaterial to an applicant's eligibility to vote where the
23 applicant has otherwise attested to their U.S. citizenship under penalty of perjury or provide
24 DPOC under Arizona law." See Secretary of State's Answer to LUCHA Plaintiffs' First Am.

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26
27 ¹ The numbering for the exhibits in the Declaration of Hayden Johnson is a continuation of the
28 numbering of the exhibits from the Declaration of Nicole Hansen, which is also attached to
LUCHA Plaintiffs' filing.

1 Compl., Doc. 124 ¶¶ 66-67; *see also id.* ¶ 197 (admitting that the Checkmark Requirement
2 does not serve any rational state interest).

3 5. The Secretary also advised counties in a memo that “if an applicant provides DPOC, or
4 DPOC can be acquired based on the provided information, the county recorder should accept
5 the form. The checkbox is immaterial and violates the CRA, by denying the right to register
6 to vote to eligible Arizonans who accidentally omit the checkmark from their voter registration
7 application.” **Hansen Decl., Ex. 16** (AZSOS-000012).

8 6. Plaintiffs have issued discovery requests to the Secretary and County Recorders
9 regarding whether, at least where election officials have in their possession sufficient evidence
10 of citizenship for a voter, the citizenship checkmark is immaterial and adds nothing to election
11 officials’ assessment of the voter’s identity or eligibility requirements. Responses to these
12 discovery requests are due June 16, 2023, and June 29, 2023, respectively. *See, e.g., Johnson*
13 **Decl., Ex. 32** at 6 (Interrogatories to Secretary Fontes); **Johnson Decl., Ex. 33** at 9 (RFPs to
14 Secretary Fontes); **Johnson Decl., Ex. 34** at 7-8 (Interrogatories to County Recorders);
15 **Johnson Decl., Ex. 35** at 9-10 (RFPs to County Recorders).

16 7. The Secretary concedes that place of birth is not material to assessing any voter
17 qualification, admitting Plaintiffs’ allegation that “[a] voter’s birthplace is wholly immaterial
18 to their qualifications to vote” and “[a] person’s place of birth has no bearing whether they are
19 eighteen, currently a citizen of the United States, or a resident of Arizona and the specific
20 jurisdiction in which they are registering.” Secretary of State Answer to LUCHA Plaintiffs’
21 First Am. Compl., Doc. 124 ¶ 56; LUCHA Plaintiffs’ First Am. Compl., Doc. 67 ¶ 56.

22 8. Plaintiffs have issued discovery requests to the Secretary and County Recorders
23 regarding whether, to what extent, and for what purposes Arizona election officials use place
24 of birth information for any voter registration, voter eligibility, or voter identification purpose.
25 Responses to these discovery requests are due June 16, 2023, and June 29, 2023, respectively.
26 *See, e.g., Johnson Decl., Ex. 32* at 6 (Interrogatories to Secretary Fontes); **Johnson Decl., Ex.**

1 **33** at 9 (RFPs to Secretary Fontes); **Johnson Decl., Ex. 34** at 7-8 (Interrogatories to County
2 Recorders); **Johnson Decl., Ex. 35** at 9-10 (RFPs to County Recorders).

3 9. In Louisiana, the instructions for the voter registration application form explicitly states
4 that the place of birth prompt, like the inquiries for sex and race, are used “for statistical
5 purposes only.” Defs.’ Ex. I, Doc. 365-1 at 140.

6 10. Other states—such as Missouri, Nebraska, and North Carolina—clarify on the voter
7 registration application form, appended instructions, or in further online materials that a voter
8 listing place of birth is not required to submit a complete registration form. Defs.’ Ex. I, Doc.
9 365-1 at 143-44, 149; **Johnson Decl., Ex. 36** (Nebraska Secretary of State, Voter Registration
10 Portal, “DEMO Page 5 – SOS Online Voter Registration”,
11 <https://www.nebraska.gov/demo/sos-voter-reg/five.html> (last accessed May 31, 2023)).

12 11. It does not appear that Alabama, Nevada, Vermont, or Tennessee require place of birth
13 for voter registration or reject voter registration applications for omission of place of birth.

14 The Alabama and Nevada forms Defendants cite do not provide that prospective voters
15 must submit place of birth information to be registered. *See* Defs.’ Ex. I, Doc. 365-1 at 137,
16 147. The information is not otherwise required for registration in Alabama or Nevada law.
17 Alabama law expressly provides that “no applicant shall be required to answer any question,
18 written or oral, not related to his or her qualifications to register.” Ala. Code § 17-3-52; *see*
19 *also id.* § 17-3-54 (stating that an application “may be refused registration” only if the
20 applicant “fails to establish by evidence ... that he or she is qualified to register”). Alabama’s
21 list of voter qualifications does not include birthplace disclosure. *Id.* § 17-3-30 (describing
22 voter qualifications); Ala. Const. art. VIII, § 177 (same). Nevada is similar on this issue. Nev.
23 Const. art. II, § 1 (describing voter qualifications); Nev. Rev. Stat. § 293.485 (same). Nevada
24 law does not require that its state voter registration form include a space for birthplace. Nev.
25 Rev. Stat. §§ 293.507(4), 293.5235(12). For prospective Nevada voters who apply for
26 registration at the Nevada Department of Motor Vehicles, the applicants’ place of birth is not
27 one of the categories of information required to be transmitted to the county clerk to process
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1 the registration, further indicating that birthplace is immaterial to registration. *Id.* §§ 293.5742,
2 293.57688.

3 For Vermont and Tennessee, the statutes Defendants cite do not require that voters
4 provide their place of birth as a condition for registering to vote; the statutes only provide that
5 the state registration forms must contain the birthplace field. *See* Tenn. Code Ann. § 2-2-116
6 (providing a template form and stating that the form “shall contain all the information required
7 before being signed by the registrant” but not dictating that all information on the template
8 form is “required”); 17 V.S.A. § 2145. The election codes in Tennessee and Vermont also do
9 not elsewhere require affirming place of birth as a condition to register to vote. *See, e.g.*, 17
10 V.S.A. § 2121 (listing eligibility requirements); Tenn. Code Ann. §§ 2-2-102, 2-2-104
11 (similar). And prospective Vermont voters registering using the online application are not
12 required to input place of birth, which is listed as an optional field on the online application
13 form. *See Johnson Decl., Ex. 37* (Vermont Secretary of State, Online Voter Registration
14 System, <https://olvr.vermont.gov/Registration/RegistrationDetails> (last accessed May 31,
15 2023)). Tennessee similarly appears to not mandate rejecting an online application if a
16 prospective voter fails to input place of birth, stating that a voter can register online by
17 inputting their state-issued identification number. *See, e.g., Johnson Decl., Ex. 38* (Tennessee
18 Secretary of State, Frequently Asked Questions for this Division, “What will I need to register
19 to vote online?”, <https://sos.tn.gov/elections/faqs?page=1> (last accessed May 31, 2023)). For
20 both Tennessee and Vermont, the state mail-in voter registration forms prompt voters to input
21 their telephone number just like the prompt for place of birth, but it appears that in neither case
22 will a registration be rejected if a voter omits answering the field. *See, e.g.,* Defs.’ Ex. I, Doc.
23 365-1 at 152, 157. Moreover, none of these states impose a bifurcated registration system like
24 Arizona; in each, voters may register for *all* elections with the Federal Form, which does *not*
25 require birthplace. *See, e.g.,* Ala. Code § 17-4-60(c); 17 V.S.A. § 2145(a).

26 12. As of this filing, no depositions have taken place in this consolidated matter. *See*
27 Johnson Decl. ¶ 11. Plaintiffs expect to depose representative(s) of the Secretary of State and
28

1 Attorney General, Intervenor-Defendants, county recorders, and knowledgeable third parties.
2 *Id.* These depositions will enable Plaintiffs to further establish the facts concerning lack of
3 materiality of the Checkmark Requirement and Birthplace Requirement. *Id.* These depositions
4 will also enable Plaintiffs to further establish that Defendants' asserted rationale(s) for these
5 requirements lack a factual basis. *Id.*

6 13. The Secretary has admitted that certain of the databases listed in H.B. 2492 and H.B.
7 2243 may include potentially outdated and unreliable information. *See* Secretary of State's
8 Answer to Poder Latinx Plaintiffs' Second Am. Compl., Doc. 189 ¶ 51.

9 14. The Secretary has admitted that the SAVE system is not a universal or exhaustive list
10 of U.S. citizens and may contain outdated or inaccurate data on citizenship status. *See*
11 Secretary of State's Answer to Poder Latinx Plaintiffs' Second Am. Compl., Doc. 189 ¶ 52.

12 15. The Secretary has admitted that some United States citizens may be erroneously
13 identified as non-citizens based on potentially outdated and inaccurate information. *See*
14 Secretary of State's Answer to Poder Latinx Plaintiffs' Second Am. Compl., Doc. 189 ¶ 91.

15 16. The SAVE system contains information only about immigrants. **Johnson Decl., Ex. 39**
16 (U.S. Citizenship and Immigration Services, About SAVE, [https://www.uscis.gov/save/about-](https://www.uscis.gov/save/about-save/about-save)
17 [save/about-save](https://www.uscis.gov/save/about-save/about-save) (last accessed June 2, 2023)).

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CERTIFICATE OF SERVICE

On this 5th day of June, 2023, I caused the foregoing to be filed and served electronically via the Court's CM/ECF system upon counsel of record.

/s/ Danielle Lang
Danielle Lang

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mi FAMILIA VOTA, et al.
Plaintiffs,
v.
ADRIAN FONTES, in his official capacity as
Arizona Secretary of State, et al.,
Defendants,
and
Speaker of the House Ben Toma and Senate
President Warren Petersen,
Intervenor-Defendants.

LIVING UNITED FOR CHANGE IN ARIZONA, et
al.,
Plaintiffs,
v.
ADRIAN FONTES, in his official capacity as
Arizona Secretary of State, et al.,
Defendant,
and
STATE OF ARIZONA, et al.,
Intervenor-Defendants,
and
Speaker of the House Ben Toma and Senate
President Warren Petersen,
Intervenor-Defendants.

PODER LATINX, et al.,
Plaintiffs,
v.
ADRIAN FONTES, in his official capacity as
Arizona Secretary of State, et al.,
Defendants,

Case No. 22-00509-PHX-SRB
(Lead)

**DECLARATION OF
HAYDEN JOHNSON**

Consolidated Cases
No. CV-22-00519-PHX-SRB
No. CV-22-01003-PHX-SRB
No. CV-22-01124-PHX-SRB
No. CV-22-01369-PHX-SRB
No. CV-22-01381-PHX-SRB
No. CV-22-01602-PHX-SRB
No. CV-22-01901-PHX-SRB

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1 and
2 Speaker of the House Ben Toma and Senate
3 President Warren Petersen,
4 Intervenor-Defendants.

5 UNITED STATES OF AMERICA,
6 Plaintiff,

7 v.
8 STATE OF ARIZONA, et al.,
9 Defendants,

10 and
11 Speaker of the House Ben Toma and Senate
12 President Warren Petersen,
13 Intervenor-Defendants.

14 DEMOCRATIC NATIONAL COMMITTEE, et al.,
15 Plaintiffs,

16 v.
17 ADRIAN FONTES, in his official capacity as
18 Arizona Secretary of State, et al.,
19 Defendants,

20 and
21 REPUBLICAN NATIONAL COMMITTEE,
22 Intervenor-Defendant,

23 and
24 Speaker of the House Ben Toma and Senate
25 President Warren Petersen,
26 Intervenor-Defendants.

27 ARIZONA ASIAN AMERICAN NATIVE
28 HAWAIIAN AND PACIFIC ISLANDER FOR
EQUITY COALITION,
Plaintiff,

v.
ADRIAN FONTES, in his official capacity as
Arizona Secretary of State, et al.,

1 Defendants,
2 and
3 Speaker of the House Ben Toma and Senate
4 President Warren Petersen,
5 Intervenor-Defendants.

6 PROMISE ARIZONA, et al.,
7 Plaintiffs,
8 v.
9 ADRIAN FONTES, in his official capacity as
10 Arizona Secretary of State, et al.,
11 Defendants,
12 and
13 Speaker of the House Ben Toma and Senate
14 President Warren Petersen,
15 Intervenor-Defendants.

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1 I, HAYDEN JOHNSON, declare as follows:
2

3 1. I am one of the attorneys representing Plaintiffs Living United for Change in Arizona,
4 League of United Latin American Citizens Arizona, Arizona Students' Association, ADRC
5 Action, Inter Tribal Council of Arizona, Inc., San Carlos Apache Tribe, and Arizona Coalition
6 for Change (collectively, "LUCHA Plaintiffs"). I have been employed by the Campaign Legal
7 Center since August 2020. I am over the age of 18 and competent to testify as to the matters
8 set forth in this declaration based upon my own personal knowledge. This declaration is
9 submitted in support of Non-U.S. Plaintiffs' Opposition to Defendants' and Intervenor-
10 Defendant's Motions for Partial Summary Judgment.

11 2. On June 5, 2023, I retrieved a copy of the court reporter's transcript of proceedings for
12 the scheduling conference held before this Court in this consolidated case on March 23, 2023,
13 of which a true and correct copy is attached as Exhibit 31.¹

14 3. On June 5, 2023, I retrieved a copy of the Consolidated Plaintiffs' First Set of
15 Interrogatories issued to Secretary of State Adrian Fontes on May 17, 2023, of which a true
16 and correct copy is attached as Exhibit 32.

17 4. On June 5, 2023, I retrieved a copy of the Consolidated Plaintiffs' First Set of Requests
18 for Production issued to Secretary of State Adrian Fontes on May 17, 2023, of which a true
19 and correct copy is attached as Exhibit 33.

20 5. On June 5, 2023, I retrieved a copy of the Consolidated Plaintiffs' First Set of
21 Interrogatories issued to Arizona County Recorders on May 30, 2023, of which a true and
22 correct copy is attached as Exhibit 34.

23 6. On June 5, 2023, I retrieved a copy of the Consolidated Plaintiffs' First Set of Requests
24 for Production issued to Arizona County Recorders on May 30, 2023, of which a true and
25 correct copy is attached as Exhibit 35.

26
27 ¹ The numbering for the exhibits in the Declaration of Hayden Johnson is a continuation of the
28 numbering of the exhibits from the Declaration of Nicole Hansen, which is also attached to
LUCHA Plaintiffs' filing.

1 7. On May 31, 2023, I retrieved a pdf copy via a webpage printout of a demo page for the
2 Nebraska Secretary of State’s online Voter Registration Portal showing the inquiry for place
3 of birth, of which a true and correct copy is attached as Exhibit 36 and available online at
4 <https://www.nebraska.gov/demo/sos-voter-reg/five.html>.

5 8. On May 31, 2023, I retrieved a pdf copy via a webpage printout of the Vermont
6 Secretary of State’s Online Voter Registration System portal showing the inquiry for place of
7 birth, of which a true and correct copy is attached as Exhibit 37 and available online at
8 <https://olvr.vermont.gov/Registration/RegistrationDetails>.

9 9. On May 31, 2023, I retrieved a pdf copy via a webpage printout of the Tennessee
10 Secretary of State’s Frequently Asked Questions for this Division website containing the
11 answer to the inquiry “What will I need to register to vote online?”, of which a true and correct
12 copy is attached as Exhibit 38 and available online at <https://sos.tn.gov/elections/faqs?page=1>.

13 10. On June 2, 2023, I retrieved a pdf copy via a webpage printout of the U.S. Citizenship
14 and Immigration Services webpage titled “About SAVE”, of which a true and correct copy is
15 attached as Exhibit 39 and available online at [https://www.uscis.gov/save/about-save/about-](https://www.uscis.gov/save/about-save/about-save)
16 [save](https://www.uscis.gov/save/about-save/about-save).

17 11. As of this filing, no depositions have taken place in this consolidated matter. Plaintiffs
18 expect to depose representative(s) of the Secretary of State and Attorney General, county
19 recorders, Intervenor Defendants, and knowledgeable third parties. These depositions will
20 enable Plaintiffs to further establish, *inter alia*, the facts concerning lack of materiality of the
21 challenged H.B. 2492 Checkmark Requirement and Birthplace Requirement. These
22 depositions will also enable Plaintiffs to further establish the facts concerning Defendants’
23 asserted rationale(s) for, *inter alia*, the challenged H.B. 2492 Checkmark Requirement and
24 Birthplace Requirement.

25
26 Respectfully submitted June 5, 2023:

27 /s/ Hayden Johnson
28 **CAMPAIGN LEGAL CENTER**
Hayden Johnson*

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CERTIFICATE OF SERVICE

On this 5th day of June, 2023, I caused the foregoing to be filed and served electronically via the Court’s CM/ECF system upon counsel of record.

/s/ Danielle Lang
Danielle Lang

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INDEX OF EXHIBITS**CONTROVERTING STATEMENT OF FACTS IN SUPPORT OF NON-U.S. PLAINTIFFS' OPPOSITION TO DEFENDANTS ATTORNEY GENERAL KRIS MAYES AND STATE OF ARIZONA'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND INTERVENOR-DEFENDANT RNC'S MOTION FOR PARTIAL SUMMARY JUDGMENT***Mi Familia Vota v. Fontes*, No. CV-22-00509-SRB (Lead)

Exhibit Number	Document Description	Citation or Bates Number (if applicable)
Exhibits to Declaration of Hayden Johnson		
31	Transcript of March 23, 2023, Scheduling Conference	
32	Consolidated Plaintiffs' First Set of Interrogatories to Defendant Secretary of State Adrian Fontes	
33	Consolidated Plaintiffs' First Set of Requests for Production to Defendant Secretary of State Adrian Fontes	
34	Consolidated Plaintiffs' First Set of Interrogatories to County Recorder Defendants	
35	Consolidated Plaintiffs' First Set of Requests for Production to County Recorder Defendants	
36	Nebraska Secretary of State Online Voter Registration Portal	

37	Vermont Secretary of State Online Voter Registration System	
38	Tennessee Secretary of State Frequently Asked Questions for Elections Division	
39	U.S. Citizenship and Immigration Services, “About SAVE”	

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EXHIBIT 31

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mi Familia Vota, et al.,)
)
 Plaintiffs,) NO. 2:22-cv-00509-SRB
v.)
) Phoenix, Arizona
Adrian Fontes, et al.,) March 23, 2023
) 11:31 a.m.
) Defendants.)
_____)

BEFORE: THE HONORABLE SUSAN R. BOLTON, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SCHEDULING CONFERENCE

Official Court Reporter:
Teri Veres, RMR, CRR
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, Spc. 38
Phoenix, Arizona 85003-2151
(602) 322-7251

Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

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A P P E A R A N C E S C O N T ' D

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1 **P R O C E E D I N G S**

2 *(Proceedings begin at 11:31 a.m.)*

3 COURTROOM DEPUTY: Civil Case 22-509, Mi Familia
4 Vota and others versus Katie Hobbs (sic) and others, time set
5 for scheduling conference.

6 THE COURT: I am not going to ask counsel to make
7 their appearances for the record. Maureen has made a list of
8 all the attorneys who are appearing, both in person and
9 electronically this morning, and they will be indicated on the
10 minute entry as having appeared for today's Rule 16 scheduling
11 conference.

12 I -- the case manage -- the Rule 16 -- I should call
13 it the Rule 26(f) report was actually filed before the Court
14 set the scheduling conference. The parties had gone forward,
15 as the rules allow, to meet and confer on the schedule. I
16 read in here that there may have been other Rule 16s, but this
17 is the only one that I know about, the only one that I've seen
18 and the only one that I reviewed; and if there's something in
19 one of the others that was prepared and filed before the case
20 was consolidated, you can let me know as we proceed with our
21 discussion this morning.

22 Perhaps not from your perspective, but from my
23 perspective there is only one case now and that is the 509
24 case. It is the only case in which any filings are permitted.
25 All of the other cases have been consolidated and,

1 essentially, their docket closed.

2 So I wanted to start with a bit of a discussion, and
3 I'll talk to the attorney for the United States first and the
4 attorney for the -- lead attorney for the plaintiffs' lead
5 today, and then I'll hear what defendants have to say; but the
6 first thing that I am interested in is really what the scope
7 of discovery in this case should be for -- and that's why I
8 want to talk to the United States first, because I don't know
9 that the claim -- that that particular claim, that statutory
10 claim should have any discovery at all.

11 MS. BRAILEY: Thank you, your Honor. So we have the
12 two claims --

13 THE COURT: Could you announce your name for the
14 court reporter.

15 MS. BRAILEY: Of course, Emily Brailey on behalf of
16 the United States.

17 So we have two claims, both statutory. One is the
18 NVRA and the other is under the Civil Rights Act. I -- just
19 to be clear, I think you are referring to our Section 6 NVRA
20 claim?

21 THE COURT: Yes.

22 MS. BRAILEY: So I think that it's important -- you
23 know, the United States is defending the constitutionality of
24 a federal statute, and so it's of utmost import to us to have
25 a fulsome record for Your Honor about documentary proof of

1 citizenship and how that impacts voters in Arizona; and it's
2 important for this case and important for the case if it
3 continues through appeal, and so most of the discovery that we
4 foresee for the NVRA would be related to information on the
5 databases that the election officials have to use under the
6 statute, information on citizenship and naturalization in
7 Arizona, essentially, how the law works, how it impacts and
8 make sure that there's a fulsome record totally on the NVRA
9 for Your Honor and for any future appeals.

10 THE COURT: But aren't -- don't you also have claims
11 that are just flat out based on here's the federal statute,
12 here's the state statute, there's a conflict that -- and the
13 state statute -- or the federal statute governs these federal
14 -- specifically the presidential election?

15 MS. BRALLEY: That is a basis of the -- of the --
16 the legal -- there is that basis in the legal issue here; but,
17 again, if this case is going to move toward trial and if it's
18 going to move toward an appeal and, you know, if we're not
19 going to have full agreements across the board, then we want
20 to make sure that we have the most adequate and fulsome
21 record.

22 THE COURT: Then let me ask Ms. Lang what
23 contemplated discovery is necessary for the claims other than
24 the ones made by the United States? I know there's overlap,
25 but the United States' claims are relatively narrow.

1 MS. LANG: Yes, your Honor, and I do think that it
2 is those other claims that probably are the most demanding on
3 discovery; and so just to point you to two of those claims,
4 for example, are the *Anderson-Burdick* claims that are shared
5 across most of the non-US plaintiffs and the Section 2 claim
6 that is present in the *LUCHA* case.

7 The standards under both Section 2 and
8 *Anderson-Burdick* are intensely fact specific. So under
9 *Anderson-Burdick* the Court is asked to weigh the burdens on
10 the voters against the State interests and the evidence of the
11 state interests and the tailoring between those two.

12 So as you can imagine, that is a very fact-intensive
13 appraisal, and Section 2 is arguably even more fact intensive.
14 It is a totality of the circumstances analysis, and the
15 Supreme Court has said that in considering the totality of the
16 circumstances the Court must not -- must consider not only the
17 specific practices that are challenged, but how those
18 practices interact and interplay with an entire electoral
19 system. So that puts a substantial evidentiary burden on the
20 plaintiffs.

21 We also have to show specific discriminatory impact,
22 which usually requires expert analysis. The database matching
23 is -- challenges in the non-US plaintiffs' case will require
24 understanding -- understanding the accuracy of those
25 databases, how they function, who they are likely to target.

1 THE COURT: So I have a more specific -- which is
2 what specific discovery? For example, both of you just
3 mentioned the databases that are referenced in the statute and
4 that it's anticipated that the statute will require the
5 various County Recorders to use to determine whether or not
6 someone's eligible to vote.

7 Where -- where are you going for this discovery?

8 MS. LANG: That's a great question, Your Honor. So,
9 I mean, one of the first places we'll be going is the voter
10 file itself. We're already working closely with the Secretary
11 of State on a potential protective order in order to get the
12 data from the Secretary of State's office on the voter file.

13 That will be necessary in order to do any
14 discriminatory impact analysis, determine who are the voters
15 that are already on the rolls that will be impacted by a
16 number of these requirements.

17 THE COURT: But how do you -- it's the other side of
18 it. I mean, the voter rolls -- other than getting a
19 protective order, the voter rolls are the voter rolls.
20 They're not hard to get -- or they're not hard to produce, I
21 should say, but what is your plan for how you're going to
22 discover the accuracy or inaccuracy of these databases that
23 are supposed to be compared?

24 MS. LANG: That's a great question, Your Honor. I
25 do think it's going to require some amount of third-party

1 discovery. So I do anticipate, for example, needing to work
2 with -- you'll have to forgive me -- is it the Department of
3 Motor Vehicles here in Arizona or is it a different title?
4 Every state seems to have a different title for their
5 Department of Motor Vehicles, but that is one database that I
6 know is used.

7 I think we're going to need some initial discovery
8 from both the County Recorders, the AG and the Secretary to
9 understand what databases they have access to and the nature
10 of that access because, you know, the statute requires them to
11 do this database matching; and quite frankly, I do not yet
12 know how much of that access is already available or what
13 their plans for implementing it is and whether or not we will
14 have to go to those third parties for that discovery or
15 whether or not we'll be able to go through the defendants,
16 because the defendants might have access to that database.

17 I also think that this is an area where there likely
18 will be some expert analysis, folks who are, for example,
19 familiar with the saved database and might be able to opine to
20 the Court on its accuracy.

21 THE COURT: So we pretty much know what the County
22 Recorders are going to say. They're going to say, "We're just
23 going to wait until the Secretary of State tells us what we're
24 supposed to do." So I don't see where going to the County
25 Recorders is going to be very helpful.

1 The County Recorders, I don't even think they're
2 here represented by counsel, because they've taken the
3 position, which I am sympathetic to, that, really, while
4 they're necessary parties, they're not interested parties in
5 that they take their guidance from the State's chief election
6 official, who's the Secretary of State.

7 Let me just say where I'm going with all of this.
8 We have a very limited time frame to do the kinds of things
9 that you suggest need to be done, and I haven't even asked
10 defense counsel yet the type of discovery they think they
11 need; and here we are at the almost end of the first quarter
12 of 2023 for a statute that presumably the State of Arizona
13 wants to comply with before the next election, which is in
14 November -- well, I shouldn't say it's in November.

15 There are elections before that. There -- I don't
16 know what the earliest one is, but it's probably not more than
17 15 months away, maybe 16. Do you really -- do you have a plan
18 for really doing all of this in that short period of time?

19 MS. LANG: You're right, Your Honor, these are
20 exactly the questions I would have expected for today; and we
21 haven't even gone through -- you know, I focused on the
22 databasing, but the documentary proof of residence claim, for
23 example, will have specific needs related to non-standard
24 addressing, et cetera, and so here's what I have to say about
25 that.

1 We put forward a pretty aggressive discovery
2 schedule, and it is our position on the plaintiffs' side that
3 we are going to do our very hardest work to abide by it, and
4 that is very aggressive; but it is our view that we are going
5 to be efficient, we are going to work together
6 collaboratively.

7 I think you'll hear a little later that the AG and
8 the Secretary's office and the plaintiffs have already started
9 to come together on what discovery limits should look like,
10 and we're much closer than we were when we turned in that
11 report to you, Your Honor, and so I plan for us to -- you
12 know, for this to be one of the primary cases that my office
13 is working on, you know, in the next four or five months and
14 pull together a record.

15 We understand the incredible import of this case.
16 We understand the urgency and, indeed, I think the AG -- the
17 Attorney General and the Secretary of State also understand
18 the urgency that you've just laid out, Your Honor.

19 We all feel an enormous amount of pressure and
20 importance to get this case to a resolution for the 2024
21 elections, and it is the plaintiffs' position that one way we
22 could accomplish that is by trying to set a firm trial date at
23 the end of the year; and in order to do that we could dispense
24 with the current schedule's proposal for kind of full summary
25 judgment motions at the end of October because that -- we

1 don't anticipate that this is a case, given that it's headed
2 towards a bench trial, where the kind of fact-intensive, full
3 summary judgment motions would make much sense or be a very
4 good use of judicial resources.

5 And so, instead, what we would suggest is we move
6 forward to trial and if folks want to file some partial
7 summary judgment motions, which I think would be appropriate,
8 for example, you mentioned the Section 6 NVRA claim, that
9 those could be done well in advance of that trial date to give
10 Your Honor the opportunity to narrow the issues for trial.

11 THE COURT: And that exactly was the next point that
12 I was going to raise, but let me switch sides here for a
13 minute.

14 MS. LANG: Thank you, your Honor.

15 THE COURT: And that is whether or not there are --
16 well, first, on the issue of discovery, in the case management
17 order there's an indication that the State doesn't anticipate
18 propounding discovery, and there is also the statement that
19 the Secretary does not anticipate propounding any discovery.

20 So, Mr. Morgan, who -- who is your client?

21 MR. MORGAN: Just checking the time. Good morning,
22 Your Honor. I represent the Secretary of State.

23 THE COURT: Okay. And, Ms. Ward, you represent?

24 MS. WARD: Attorney General Mayes, Your Honor.

25 THE COURT: So is that the State --

1 MS. WARD: Sorry, it is also the State of Arizona,
2 yes.

3 THE COURT: Okay, good. The Secretary of State, do
4 you have a different position today -- since this lawsuit was
5 filed there's been some changes in the administration in the
6 State of Arizona, and we now have a Secretary of State of the
7 same party as the Governor and the Attorney General; and so I
8 was thinking that what might have been a different view
9 between some of the holders of that office before the change,
10 maybe now you were all of the same view? I don't know.

11 MR. MORGAN: Craig Morgan, again, Your Honor, if I
12 may?

13 Thank you. I can tell you that the -- I can't opine
14 on what positions were taken beyond what I've read. I don't
15 know what the prior administration's position is but I do -- I
16 can -- I can tell the Court that I've been working very
17 closely with Ms. Ward and our colleagues with respect to what
18 this case should look like.

19 From our perspective, Your Honor, the Secretary of
20 State's office, our view is it's not our job to defend the
21 law. That's the Attorney General's job. That said, we
22 understand why we're here, and my concerns are twofold and in
23 reverse order because you started with discovery.

24 No. 1, I want to make sure that we are participating
25 to the extent we need to in the discovery process, but not

1 being overly burdened with so many plaintiffs and so much
2 discovery because, again, you know, I represent a state agency
3 with very limited resources. So we really need to focus in.
4 That's No. 1.

5 No. 2, Your Honor, and I think this is key. This
6 has to happen quickly. The next election -- and I was
7 corresponding with my -- with my client just a moment ago,
8 because you raised a good question. I can tell the Court the
9 next election, to my understanding, is in March of 2024.

10 THE COURT: March?

11 MR. MORGAN: March.

12 THE COURT: Which election's that?

13 MR. MORGAN: My understanding is it's a presidential
14 preference as well as a local election. I don't know the
15 specifics. I was just quickly texting.

16 THE COURT: Okay.

17 MR. MORGAN: So I don't know anything more than
18 that, and if I'm wrong and I misread the text, don't blame my
19 client, blame me. That what he says; and I say that, Judge,
20 because our client's concern is we've got this law, right,
21 and, candidly, Your Honor, I think the Legislature has put my
22 client in a -- in a very unfortunate pile of quicksand and
23 we're just trying not to sink because, on the one hand, we've
24 got these laws that, frankly, we have to spend a lot of time
25 and resources preparing to implement, let alone implementing,

1 right, and then we've got the conflict that is this case,
2 okay.

3 There's a law in Arizona, A.R.S. 16-407-03, and this
4 is key, Your Honor. This is why I'm here today and I'm about
5 to say what I'm about to say. It says, "Except when
6 prescribed by a court of competent jurisdiction, no officer or
7 agent of this state," my client, County Recorders, "a
8 political subdivision of this state or any other governmental
9 entity in this state may modify or agree to modify any
10 deadline, filing date, submittal date or other
11 election-related date that is provided for in statute. A
12 person who violates this section is guilty of a class 6
13 felony."

14 So, Your Honor, I've got -- my client's got this
15 thing where they can either try to implement this thing, okay,
16 and run the risk of potentially -- we don't know where things
17 are going to fall out -- but run the risk of violating federal
18 law and disenfranchising voters, okay, or we can try to
19 reconcile it and run the risk of some overzealous agency
20 accusing these hard-working men and women, who are just public
21 servants, of committing a felony.

22 So my view, Your Honor, is we need to get dirty and
23 figure out what this case is about. We need to do it quickly.
24 We need to litigate precisely and expeditiously, and in the
25 meantime, Your Honor, I'm telling the Court now my client will

1 stipulate.

2 We'll stipulate to this Court entering a preliminary
3 injunction while we figure this out. I can't speak for all of
4 the counties, and I won't speak for Ms. Ward's client, but I
5 suspect the counties have the same concern my client does,
6 which is, we don't want any of these men and women who are
7 just public servants being put in a position where they could
8 be accused of committing a crime or, just as bad,
9 disenfranchising their neighbors. We don't want that to
10 happen.

11 So from our perspective, Your Honor, we need this
12 Court to help us help this case get to where it's going to be,
13 and the first thing we need to do is figure out what we're
14 actually fighting about, what discovery's needed.

15 In the meantime, my client, and I think the
16 counties, they need to continue to prepare as though this
17 whole thing gets implemented. So behind the scenes we want to
18 prepare. We don't want to implement. We can prepare,
19 preserve the status quo; but we need a court order because of
20 that statute so we aren't facing the risk of felony
21 allegations, felony charges.

22 So I'm coming to the Court today begging, literally
23 begging, help us get this case on track, get it done quickly.
24 The Secretary of State's office will absolutely cooperate, and
25 we've already reached out and raised these issues with the

1 other parties before today. We raised them, I think, a week
2 or so ago at the latest.

3 And I'm asking that you order the parties in the
4 next five to ten days to submit to you a form of preliminary
5 injunction that allows us to continue to prepare to implement,
6 but at the same time preserve the status quo and gives us the
7 coverage we need under ARS 16-407.03; but also has a very
8 precise, razor sharp, scalpel-precision discovery order that
9 is not overbroad, doesn't have people casting these wide nets,
10 lazily hoping to get something they can use. We need to know
11 what we're litigating. So that's our position, Your Honor.

12 THE COURT: And I had asked all the County Recorders
13 to file something, and almost all of them did. There were two
14 that didn't. I can't remember -- one of them was Yavapai
15 County and I can't remember who the other county was, but
16 nobody complained and appears to be worried that those two
17 counties are in the process of doing these database
18 comparisons.

19 To your knowledge, are all the County Recorders on
20 board with you, the Secretary of State, continuing to take the
21 lead and are going to just comply with whatever the Secretary
22 of State determines has to be done?

23 As an example, you know, there's this problem
24 where -- the plaintiffs think there's problems with these
25 databases and doesn't even know that all of them are available

1 to County Recorders or the Secretary of State.

2 You know, it would be really helpful to quickly tell
3 the plaintiffs, "Well, I know the statute says this, but the
4 State of Arizona doesn't have access to the Social Security
5 database," or "doesn't have access to this database from the
6 Department of Homeland Security," and so they know that the
7 only databases and the reliability of the databases will be
8 limited to whatever else is left that the State does have
9 access to.

10 MR. MORGAN: Let me answer the most recent question
11 first and then I'll work my way back, and I apologize in
12 advance. If I don't answer anything, please let me know. I
13 want to make sure I answer the questions.

14 No. 1, with respect to -- I agree with you, Judge.
15 We need to talk. Tell me -- if that's a question you have,
16 ask me. If I can get an answer, I will. The County
17 Recorders, if they can get an answer, they should. Why
18 wouldn't they want to, right? I personally would be surprised
19 if many of these counties, particularly some of the more
20 smaller counties, have access to certain federal databases
21 contemplated by this law. I can't say for sure.

22 I have a very -- what I consider to be good
23 suspicion the answer is "no," but I can't speak for them. I
24 don't know, but I can absolutely ask the Elections Director at
25 the Secretary of State's office what we have access to and

1 give them that information so they can target the discovery
2 where it needs to go.

3 With respect to the other counties, I can tell the
4 Judge that, again, one, maybe two weeks ago, I sent an e-mail
5 to everybody explaining our position, the position I was going
6 to state at the prior hearing and now today; and all the
7 counties responded back and indicated to me that they didn't
8 say I could take the lead or speak to them, but they indicated
9 to me, and I think they copied everyone, that they're open to
10 this concept of a stipulated preliminary injunction, okay.
11 That's No. 1.

12 No. 2, to the extent that they're sitting here or
13 not sitting here, as it were, and taking the position they're
14 nominal parties, my view is if you're not gonna show up and
15 participate, you're just gonna have to get in line and deal
16 with it. We have to move forward, and either you're gonna be
17 a part of this or you're not; and if you're not, that's fine.
18 It's your decision. I'm like you, Your Honor, I'm sympathetic
19 to that, but we still have to do the work and we need to get
20 this done.

21 So I can commit to the Court that I will do
22 everything in my power to give the Court whatever assurances
23 it needs that folks are aware of things and get these counties
24 on board with things; but I cannot tell the Court that I can
25 speak for them at this point, because I cannot.

1 THE COURT: So with respect to this preliminary
2 injunction that you would propose stipulating to, would it be
3 one that would only go up to the first next election, because
4 that's one year away, according to your latest information?

5 MR. MORGAN: My best guess, yes.

6 Well, Your Honor, the answer is "yes" with the
7 caveat that, look, I know the Court appreciates and I think
8 everybody else appreciates that this has to happen quickly for
9 a lot of reasons.

10 So I am, Your Honor, presuming that we have a
11 schedule in line that allows this case to proceed to its final
12 conclusion so we know at the end -- when we're hitting that
13 area -- my client, frankly, has told me that in order to be
14 able to prepare the way they need to and then actually
15 implement, this needs to be done by October, meaning we need
16 to be done. That's what I was told, and the reason being is
17 we don't --

18 THE COURT: And when you say "implement," they need
19 to prepare to try to do this purging process by then?

20 MR. MORGAN: So behind the scenes, what we would
21 propose is that we're preparing as though the plaintiffs'
22 worst case scenario comes to pass, right, everything has to
23 happen. All right, so preparing for that; but, also, we need
24 to be nimble enough to -- imagine a machine, to take the parts
25 out you tell us can't be there and reconstruct it really

1 quickly so that we can then have it operate the way you tell
2 us it needs to operate; and that's one aspect of it, right?

3 But as part of that, we've got other machinations we
4 have to account for. For example, sending the ballots out to
5 our service people, sending the ballots out to early voters.
6 These things -- there's lead time. We need to be able to do
7 these things. The counties need to be able to do these
8 things.

9 And so from my client's perspective -- I personally
10 honestly think October is very aggressive, but that's the --
11 that's what I was told and that's what I'm telling the Judge.
12 So ideally we would have this preliminary injunction in
13 place --

14 THE COURT: And what -- let me just -- what you
15 anticipate -- what you want this preliminary injunction to say
16 is kind of the same thing that I got the County Recorders to
17 represent, that they were not going to take any action to
18 purge the lists by these database comparisons, sending out the
19 notices that "You're coming off the list unless you tell me or
20 show me documented proof of citizenship or residency,"
21 depending what the notice says, that those things don't --
22 those things would be preliminarily enjoined from happening
23 until the preliminary injunction was dissolved?

24 MR. MORGAN: I think, generally speaking, that's
25 correct, Judge, the idea being that we want to make sure that

1 whatever we are still litigating over, okay, there is a Court
2 order because of the statute that I mentioned earlier that
3 allows us -- obviously, we're going to comply with the Court
4 order, but it also gives us clear cover because now my -- my
5 client's employees, these public servants in all these
6 counties, they're not going to be arguably or potentially
7 committing a felony or worried about committing a felony by
8 just doing their job.

9 It's the best of both worlds, right? It's that
10 status quo. They get to litigate the issues they want to
11 litigate, and we get to prepare as though this things gets
12 implemented with the caveat that we won't implement it until
13 you tell us we can or if it takes too long we'll come back and
14 ask you, right?

15 THE COURT: Have you discussed this with Ms. Ward?

16 MR. MORGAN: I have.

17 THE COURT: Have you discussed it with
18 Mr. Langhofer?

19 MR. MORGAN: I have discussed it in an e-mail I
20 sent; and I won't speak for Mr. Langhofer, but I do believe
21 his client's position is that --

22 THE COURT: I'm going to ask him. You don't need to
23 tell me what his position is --

24 MR. MORGAN: Okay. Sorry, Your Honor.

25 THE COURT: -- because I'm going to ask him right

1 now, Mr. Langhofer.

2 MR. LANGHOFER: Thank you, your Honor. Our -- our
3 position is that -- first of all, this may be academic because
4 it appears that the counties aren't implementing these
5 statutes.

6 So I want to say that the Secretary of State's
7 proposing a broader injunction. They want it to not only
8 apply at the moment as of right now, but also to any
9 applicants that -- any new registrants. So it's a little bit
10 broader than that, and I don't know that he's contemplating
11 enjoining just the -- what Your Honor's called the voter purge
12 statute. I thought he was contemplating enjoining all of the
13 statutes that are at issue.

14 But put that aside, our position is we don't hand
15 out injunctions without evidence and findings of the legality,
16 and we can't just stipulate away the rights of Arizona voters
17 to have the laws of Arizona enforced.

18 THE COURT: Okay, I was having trouble -- I don't
19 know about the rest of you, but your voice is not clear.

20 Maureen, can I close this any maybe my live note
21 will be up? Maybe I can read what he said because usually a
22 court reporter -- could you all understand everything he said?

23 MR. MORGAN: I did, Your Honor.

24 THE COURT: You did? Everybody else is indicating
25 maybe not. Let me see what the court --

1 MR. LANGHOFER: I can try again a little more
2 slowly, Your Honor.

3 THE COURT: Let me see what the court reporter got.

4 Okay, so first he said it may be academic because it
5 appears that the counties aren't implementing these statutes,
6 which I know is true because they told me they wouldn't do it
7 until the Secretary of State told them to go ahead.

8 He also thinks the Secretary of State's trying to
9 seek a broader preliminary injunction that relates to new
10 registrants. He doesn't know whether you're seeking to purge
11 -- this isn't quite getting there -- I think seeking not to do
12 any purging whatsoever, Mr. Langhofer, until such time as the
13 Court dissolves the preliminary injunction, correct?

14 MR. MORGAN: In part, yes, your Honor. To
15 Mr. Langhofer's point, and to be perfectly clear, our view is
16 we are perfectly acceptable to stipulating to enjoin the law
17 to the extent necessary to litigate the issues.

18 So to the extent that there are issues that invoke
19 other areas of the statutes, we're more than happy to have a
20 preliminary injunction in place so long as we can get to
21 prepare behind the scenes if implementation has to happen;
22 but to not implement because, again, the concern is the dates
23 and the statute talking about, you know, dates and deadlines,
24 et cetera.

25 We just think that the more prudent approach of all

1 this being litigated is to enjoin whatever aspects of these
2 laws they're litigating over, just to enjoin the counties and
3 the Secretary of State from implementing it but allowing them,
4 again, to continue to prepare as though they're going to need
5 to at some point.

6 THE COURT: Okay. Ms. Ward, is this some form of
7 preliminary injunction also agreeable to your client?

8 MS. WARD: Sure, Your Honor. So we sent out an
9 e-mail to the plaintiffs' group about a week ago articulating
10 that we agreed with the Secretary's proposal so long as that
11 was contingent on a preliminary injunction hearing combined
12 with a Rule 65 trial on the merits sometime this summer.

13 So we didn't -- the idea is that we don't want a
14 preliminary injunction just, you know, "Oh, we're not going to
15 enforce the laws for the entire duration of this case."

16 We did want to have the issues that can be decided
17 as a matter of law, those be decided at a preliminary
18 injunction hearing, which we would agree to combine with a
19 trial on the merits under Rule 65. Plaintiffs did not agree
20 to that proposal.

21 THE COURT: So, Mr. Langhofer, on behalf of your
22 client, you also have indicated that you don't anticipate
23 initiating any discovery; is that still the case?

24 MR. LANGHOFER: If we initiate discovery, it will be
25 to cover the question of injury and burden just to show the

1 plaintiffs have not met their burden.

2 Your Honor, I want to make sure my points on the
3 preliminary injunction were absorbed, and is it helpful if I
4 speak a little more slowly?

5 THE COURT: Yes, it is.

6 MR. LANGHOFER: Okay, I will do my best.

7 I think that the scope of the injunction that's
8 being proposed by the Secretary of State is not limited to
9 just the voter purge clauses, but to all of the challenged
10 statutes. So that's quite a bit broader than what we've
11 discussed with you so far today, and, more importantly, we
12 don't think it's appropriate to enjoin laws without evidence
13 and findings of fact and finding of unconstitutionality or
14 trial preemption, and so we can't just stipulate away
15 duly-enacted statutes of the State.

16 THE COURT: Is there any form of preliminary
17 injunction -- limited preliminary injunction your client would
18 be willing to stipulate to along the lines of what Mr. Morgan
19 was just talking about, primarily this issue of preparing for
20 implementing the statute but being enjoined -- and I'm
21 thinking of the purge as well -- enjoined from taking any
22 action towards purging until such time as the preliminary
23 injunction is dissolved?

24 MR. LANGHOFER: I guess I haven't put the question
25 to the client that directly, but I will say I don't -- I

1 recall from the last argument that Your Honor was most
2 concerned about the purge.

3 We're probably less worried about an injunction on
4 that clause than the others because we just don't think it's
5 going to be a very significant number of voters and so, you
6 know, maybe -- maybe that's where the gap is smallest between
7 our positions; but when we're looking at the other clauses and
8 there's no evidence presented yet, there's no findings of the
9 legality, we just don't think an injunction should be
10 stipulated or entered.

11 THE COURT: Okay, thank you.

12 I agree with Mr. Langhofer that in the absence of a
13 stipulation I can't enter a preliminary injunction without a
14 hearing and making the findings of likelihood of success on
15 the merits, balance of hardships, irreparable harm, public
16 interest, et cetera. That was actually all four of them, but
17 I don't think anything -- I mean, I've done it many times
18 before.

19 If there's a stipulation, that can be entered. So I
20 think that it's incumbent upon you, Mr. Morgan, who's the
21 proposal of the stipulation for the reasons that you've
22 articulated based on the statute, not the new statute, 16-407,
23 to attempt to draft as narrow a preliminary injunction as you
24 can that's going to be acceptable to Mr. Langhofer's clients.

25 I'm sure that the plaintiffs are going to agree to

1 any preliminary injunction that you propose because they don't
2 think -- they think there's never going to be an enforcement
3 of the challenged portions of the statute.

4 So I have to leave that to you, and if you can't get
5 an agreement then you'll have to file a motion and we'll have
6 to have a hearing on that motion, which it's your interest in
7 speed that is going to govern.

8 I'm not going to set a deadline for you to do any of
9 these things, but you know how quickly you have to either get
10 an agreement or file the motion.

11 MS. LANG: Your Honor --

12 MR. MORGAN: Thank you, your Honor. I appreciate
13 that, and I suspect you'll hear from me one way or the other
14 in the next ten days.

15 THE COURT: Okay.

16 Did you want to add something, Ms. Lang?

17 MS. LANG: Just quickly, Your Honor. You're not
18 wrong, of course, that the plaintiffs are amenable to some
19 form of stipulated injunction; but I would say that
20 Mr. Langhofer is right, that even if, in fact, that there was,
21 you know, a stipulation among the parties, I do think it would
22 have to be accompanied by some findings of this Court that
23 it's appropriate, because it would be overriding a state
24 law --

25 THE COURT: Your stipulation would have to include

1 those things.

2 MS. LANG: Exactly, Your Honor.

3 THE COURT: I mean, I wouldn't just sign a
4 preliminary injunction that says, "We all agree to enjoin."

5 MS. LANG: Of course.

6 THE COURT: It would have to meet by -- specific
7 paragraphs of your stipulation would have to be sufficient for
8 me to conclude that the standard was there.

9 MS. LANG: Most assuredly, Your Honor, and I was
10 just agreeing with that general proposition; and I suspect,
11 based on my prior work with Mr. Langhofer's clients, that it's
12 very unlikely that they will stipulate to any such injunction.

13 But I do think that if the other parties came
14 forward with stipulated facts, at least, and proposed findings
15 of law, that that could perhaps at least abbreviate any
16 hearing you would need to have on such an injunction; and,
17 quite frankly, I think that Mr. Langhofer's clients would have
18 very little standing to oppose such an injunction given that
19 Mr. Langhofer has said himself that he believes that the issue
20 is academic, because it's not being enforced anyhow and his
21 clients have made no effort to seek the enforcement or
22 implementation of this law.

23 Mr. Langhofer has been well aware for some time now
24 that the status quo is non-implementation and that the RNC
25 would not have standing to appeal such a PI as a result; but,

1 of course, we would need to put that forward to you, Your
2 Honor, with the appropriate evidence and stipulated facts and
3 proposed conclusions of law.

4 Even if we narrowed its scope, I think it's very
5 unlikely that we would have agreement among the parties based
6 on what the RNC has said is their position.

7 THE COURT: Well, I'm not going to pre-judge whether
8 or not Mr. Langhofer's client would agree to the narrowest
9 necessary preliminary injunction. Instead, I'm going to leave
10 it to the parties to try to craft one; and if it comes in as,
11 "Here's facts that everybody except the RNC stipulates to that
12 supports a preliminary injunction," then Mr. Langhofer on
13 behalf of his client can file his objections and I can
14 determine whether or not it can be ruled on on the papers or
15 whether or not a hearing is -- an evidentiary hearing is
16 required.

17 MS. LANG: That is precisely what I was suggesting,
18 Your Honor, and I wanted to kind of get your sense of it; and
19 I think that that makes sense, and the remaining parties can
20 certainly discuss the matter and try to come forward with as
21 much agreement as possible.

22 THE COURT: So today I am going to enter an order
23 that reflects that there has already been the exchange of
24 initial disclosures. I assume that to be true.

25 I'm going to indicate that there will be no further

1 amendments to the -- unless somebody wants to file a gigantic
2 consolidated complaint, which I really do not want to see.

3 The proposed -- or I think -- yes, the agreed-upon
4 completion of fact discovery will be July 14, 2023. The
5 agreed expert disclosures, which are going to be simultaneous
6 expert disclosures with rebuttal reports, are August 11 and
7 September 11, and the depositions by September 28.

8 The parties suggest October 27th for dispositive
9 motions, and I'm going to stop there and suggest, as has
10 already been mentioned, that I really -- I always say -- I've
11 got to change things here entirely because we can't have every
12 plaintiff filing a motion for partial summary judgment or full
13 summary judgment or -- I'm not -- I guess we have a limited
14 number of defendants so maybe that's not a problem.

15 I don't anticipate the Secretary of State and the
16 State of Arizona each filing their own. Obviously,
17 Mr. Langhofer can file one on behalf of his client. So I
18 think I'll -- but I also usually limit it to no more than one
19 motion for summary judgment without leave of this Court.

20 But this case, I really, really would like there to
21 be a motion on the legal issues that do not require discovery
22 that we could take care of rather than -- I mean, if on
23 October 27th the parties file these giant, comprehensive
24 motions for summary judgment, I guarantee you we're going to
25 have at least one election come and go without a ruling,

1 because we're talking about -- even with no extensions of
2 time, the end date for that briefing would be the end of the
3 year of 2023, and depending on how many are filed and how big
4 they are I can't -- I can't commit to deciding it before
5 March.

6 MS. WARD: Your Honor, that is why -- that is
7 exactly why we proposed this preliminary injunction hearing.
8 I do think that it is going to help out my friend, Mr. Morgan,
9 and the Secretary's office giving them some guidance on what
10 they can and can't do.

11 We proposed this to plaintiffs as, "Let's just
12 handle the issues that can be decided as a matter of law," and
13 I think my colleague, Mr. Whitaker over at the AG's office, he
14 proposed to them, "I think it's a good idea to just almost in
15 a way bifurcate the fact and the legal issues." I think that
16 would alleviate the burden on the Court from -- I know there
17 was a heavy paper filed from the last motion to dismiss.

18 So we do think that's a good idea to get -- and
19 that can be resolved this summer. We think that's a good idea
20 and --

21 THE COURT: So, for example, this question of who
22 regulates -- who votes in presidential elections, I can't
23 imagine that discovery will be undertaken with respect to
24 whether or not the constitutional provision limits it to
25 members of the Senate and the House and gave presidential

1 elections to the State or whether presidential elections are
2 still federally controlled rather than controlled by the --
3 this is a legal issue that I have not expressed any opinion
4 on, but we really need that decided and nobody needs to do any
5 discovery because I don't think any of the drafters of the
6 Constitution are still around to tell us how they feel about
7 it, how they felt about it, what they meant and if there's
8 legislative history from way back when, that's still not a
9 discovery issue. It's either there or it's not.

10 So that's just one example that I can think of off
11 the top of my head, but I suspect there are other discrete
12 challenged portions of these statutes that could be briefed
13 legally and nobody's going to say, "You can't decide this
14 because there's material issues of fact," but I can't define
15 what they are. The presidential election one's the only one
16 that I can think of that I know for sure doesn't require
17 discovery of any present living person.

18 MS. WARD: I made a joke about that yesterday,
19 wouldn't it be fun to depose the framers; but we agree, a lot
20 of those -- especially the preemption issues, the NVRA claims,
21 those can be decided as a matter of law.

22 I think what would be most advantageous is if you
23 were to -- it doesn't have to be an order, but a very strong
24 recommendation that we get together with plaintiff and let's
25 hash out what we think can be decided as a matter of law.

1 The State and the Attorney General are more than
2 willing to -- we wanted this kind of early resolution, right,
3 so that we could provide some guidance to the Secretary, as
4 well as the counties. So we are interested in that option,
5 especially -- I think it just comes down to what issues can be
6 decided as a matter of law, and we are more than willing to
7 receive that information from the plaintiffs.

8 THE COURT: So let me add something right here -- or
9 ask the plaintiffs. Obviously, you've designated two lead
10 counsel for purposes of today's hearing, but it's really
11 difficult for -- we have three defense lawyers, two of whom
12 are aligned, and they can't deal with however many plaintiffs'
13 lawyers there are; but what Ms. Ward has suggested is exactly
14 what we need to have done today, and I want to get some
15 commitment from the plaintiffs' side that there are a few of
16 you that can make these decisions and come up with these
17 briefing schedules.

18 MS. LANG: Yes, your Honor. The non-US plaintiff
19 and the US plaintiffs have all been working together quite
20 well and organizing ourselves, and we'd be happy to continue
21 to work with the AG and the Secretary's office on that and I
22 do anticipate us being able to make those agreements.

23 I will point out that the reason why the plaintiffs
24 did not agree to the bifurcation that was proposed by the AG
25 was that the proposal was for a preliminary injunction and a

1 trial on the merits kind of consolidated this summer on the,
2 you know, legal issues.

3 I spent a good amount of time thinking about that,
4 and the presidential issue that you've addressed is the
5 obvious one. After that, it starts to fall apart pretty
6 quickly. There are discrete legal issues embedded within some
7 of the other legal claims.

8 Like, for example, I know Mr. Langhofer's clients
9 argue that the Civil Rights Act only applies -- no omission is
10 immaterial if it's in the statute. That seems like a legal
11 issue, right?

12 But assuming Mr. Langhofer's position does not
13 prevail, the question of whether or not an omission is
14 material or immaterial has some factual components to it; and
15 the remaining claims outside of the presidential election
16 issue tend to be embedded that way.

17 That being said, I do think that partial summary
18 judgment can narrow the issues would be appropriate and what
19 we, I think, are recommending is rather than that October 27th
20 deadline, we imagine something earlier, because those are
21 issues that will largely not be fact intensive, will not
22 require all the factual discovery to be complete and we can
23 narrow those issues earlier through partial summary judgment
24 so we get --

25 THE COURT: So this -- typically, we set summary

1 judgment after the close of fact discovery because that's when
2 you decide that the facts are undisputed and you can go for
3 summary judgment.

4 In this case, there isn't any reason for that
5 because the whole idea here is that it's not a material issue.
6 It's not, "Here's all the material facts and they're not
7 disputed." It's, "Here's what the law is, and this law
8 conflicts with this law and which law prevails?"

9 MS. LANG: That's right, Your Honor.

10 THE COURT: So give me a -- give me a date by which
11 you can file a motion on what you believe to be the discrete
12 legal issues.

13 MS. LANG: I don't have authority for all these
14 folks to speak. I will say that the parties on this side of
15 the aisle have spoken about their strong desire for a trial
16 before the end of the year and that we would work with the
17 Judge -- with Your Honor on what would be workable for you to
18 make that possible.

19 You know, I hear what the Secretary's counsel has
20 said about October. I just think it's not possible for us to
21 get there. I sympathize with the need to go as quickly as
22 possible. I don't see how October is a workable time line for
23 us to get to resolution on all of these issues.

24 Now, perhaps some; and I think that if we combine
25 that with, you know, hopefully some sort of status quo

1 maintenance order, that should give the Secretary the ability
2 to prepare for implementation.

3 So that is kind of our hope and I would -- we can
4 certainly confer and propose a date. I also would want Your
5 Honor's input on what would be a workable date in order for us
6 to get a trial before the 2024 election.

7 THE COURT: Well, I can't give you that until I know
8 that you're done with discovery but if you -- if you agree to
9 a dispositive motions deadline that's quite a bit before the
10 close of discovery, then we know nobody's going to file
11 another one; and I agree with the suggestion that was made
12 earlier that a case like this that's going to be tried to the
13 bench should not have a summary judgment motion that requires
14 my finding that there's no issues of material fact because I
15 should hear the facts, find the facts.

16 If they're not disputed, all the better, and then
17 make the decision; and there shouldn't be this period that
18 results in a substantial amount of delay where I might decide
19 there are a few little factual issues and we have to go to a
20 trial on the merits after there's been a period of four to six
21 months waiting for that decision.

22 MS. LANG: We agree, Your Honor.

23 MR. MORGAN: I suppose -- Craig Morgan, Your Honor.

24 I suppose from my perspective a couple things. One,
25 this is an injunction case. This case cannot be litigated for

1 years, from our perspective.

2 No. 2, I guess to be fair to the plaintiffs and be
3 clear, if there's not an injunction, I'm not gonna make
4 assurances on the record this law's not going to be
5 implemented, okay. I can't do that.

6 So we have a choice to make, and I have to advise my
7 client. So if we're going to allow this case to languish,
8 then --

9 THE COURT: Nobody's going to allow this case to
10 languish.

11 MR. MORGAN: Oh, not you, Your Honor, of course not.

12 THE COURT: Oh, I wouldn't necessarily say not me.
13 It's -- once you give me the things that I have to decide, I
14 take whatever time is necessary to decide them --

15 MR. MORGAN: Right.

16 THE COURT: -- and if you press me with a deadline,
17 I will not feel that pressure.

18 MR. MORGAN: No, Your Honor.

19 THE COURT: You know, I'm not going to be pushed
20 like, okay, we have -- "Here's our motion for summary judgment
21 but, gosh, we have to have a ruling in 30 days," no.

22 MR. MORGAN: Of course not.

23 THE COURT: So, I mean, that's -- that's important
24 for all of you to decide, that I'm interested in getting this
25 right, not interested in getting it done quickly. I do share

1 your desire that it be done before 2024 elections, but I'm
2 already skeptical about March of 2024.

3 MS. BRAILEY: Your Honor, if I may?

4 THE COURT: Yes.

5 MS. BRAILEY: It appears we have two issues going on
6 here. So, on the one hand, we have Mr. Morgan's proposal of
7 an injunction, which seems to help with the administrative
8 side of things, and the United States agrees that that seems
9 like a reasonable, you know, approach and we can commit to all
10 the parties working together to decide what's appropriate
11 there.

12 On the other side we have, "What are we doing about
13 the merits of this," right? And that's really talking about
14 the trial; and the United States, again, is on board with a
15 trial before the end of the year. I don't know that October
16 is appropriate. I'm not sure -- I would need more
17 clarification from Mr. Morgan and his client about what is the
18 trigger in October, because my understanding is this
19 injunction allows them to prepare, to train, to code --

20 THE COURT: There's a big trigger, which is that the
21 Secretary -- the election might be in March, but what the
22 Secretary of State has to do takes place months earlier and I
23 don't know -- Mr. Morgan mentioned that earliest date, which
24 is the date the ballots have to be sent to service people
25 overseas, and that means the ballots already have to be

1 printed. I mean, we have months and months of lead time
2 before an election can take place.

3 MS. BRAILEY: The ballots will go out about 45 days
4 before the primary. So they'll go out sometime in 2024 but --

5 THE COURT: They get printed --

6 MS. BRAILEY: Sure, but my understanding is that the
7 preparations to implement the sections that we're challenging
8 is all happening and it doesn't always necessarily affect
9 the -- it affects registration. It might not affect the
10 ballots.

11 I guess that there's more clarification between the
12 parties to understand whether October's appropriate, but what
13 we're saying is in these two paths we can help the Secretary
14 try to figure out administratively what to do and, on the
15 other hand, we can have a trial before the end of the year and
16 have limited motion -- partial motion for summary judgment.
17 You know, the United States could presumably file that within
18 a reasonable time after fact discovery and this would be --

19 THE COURT: What do you mean "after fact discovery"?
20 The motions we're talking about are going to be ones that
21 don't rely on the facts but rely exclusively on the law and we
22 don't -- what we don't want to see in this case, because it
23 will result in a minimum of four months or longer of nothing
24 happening, is a motion for summary judgment that does rely on
25 a statement -- a contested statement of facts.

1 If we have that, this is going to delay everything
2 tremendously because I can't hold a trial until that's
3 resolved, and I may have to resolve it by denying it and then
4 holding a trial four to six months after the motion was filed.

5 That's the delay that I heard a reasonable proposal
6 that there not be summary judgment motions that are dependent
7 on facts filed in this case but, rather, there be a trial of
8 whatever facts need to be tried with the briefing that would
9 have substituted -- that is a substitution for a summary
10 judgment memorandum of points and authorities so that if there
11 are facts to resolve, they get resolved first moment as
12 opposed to there's a fact to resolve and I can't resolve it on
13 summary judgment; but in a couple of weeks after I deny it,
14 I'll decide it.

15 So that's what we're -- we're not talking about
16 summary judgment after the close of fact discovery. We're
17 talking about a trial on the merits of whatever's left after
18 fact discovery.

19 MS. WARD: So, Your Honor, I think you asked earlier
20 about a schedule for this -- for the State's proposal on the
21 preliminary injunction --

22 THE COURT: Yes.

23 MS. WARD: -- trial on the merits. Again, just
24 issues as a matter of law, right? We are proposing May 1st
25 would be when plaintiffs turn in their brief. We would

1 respond on June 1st and then maybe --

2 THE COURT: What happened to you're going to agree
3 to a preliminary injunction?

4 MS. WARD: We are going -- we are going to agree to
5 that. It was contingent on let's get this briefing on the
6 issues of law done this summer so that we're moving things
7 along, and then that also does provide the opportunity for
8 later on in the fall we can have this trial on the -- you
9 know, with the remaining claims that are fact intensive, we
10 can do that then.

11 I have gone through plaintiffs' claims. I didn't
12 actually do the claims themselves. I just looked at the
13 relief that they're requesting. A lot of the relief that
14 they're requesting can actually -- sure, do they have also an
15 *Anderson-Burdick*, right? Of course they do, but there are
16 claims that you can actually decide as a matter of law that
17 would get the relief that they are seeking potentially as a
18 matter of law this summer.

19 So that's what we were thinking of scheduling May
20 1st, June 1 and then June 15th.

21 THE COURT: Sounds good to me for motions for
22 summary judgment on legal -- motions for partial summary
23 judgment on the legal issues.

24 MS. BRAILEY: Your Honor, I think that we might have
25 an issue, again, talking about which legal issues are going to

1 be appropriate to actually make this an efficient process.

2 You know, the United States might agree about filing
3 its partial motion for summary judgment on the NVRA; but as
4 Ms. Lang noted, breaking up, for example, the materiality
5 provision claims may not -- may not afford the efficiencies
6 that defendants are seeking for the reasons we outlined here,
7 and so I think that the motion for partial summary judgment
8 might be on just the one issue on our end.

9 THE COURT: I don't care if it's one issue or three
10 issues. All I care about is it's issues that I can decide as
11 a matter of law and are not dependent upon any discovery or
12 statement of the facts.

13 MS. LANG: Your Honor, I think that for the non-US
14 plaintiffs -- I have managed to get them to confer a little
15 bit just now, and I think that the time line that was set
16 forward, more or less, you know, in the May to July range for
17 partial summary judgment would work for us.

18 I think there's an important clarification from our
19 perspective, at least, and -- which is the difference between
20 a kind of bifurcation of claims and final judgment on the
21 merits on some claims and then, you know, other claims later
22 and creating, like, an injunction that would be immediately
23 appealable on the MSJ, that then we'd be on multiple track for
24 appeal.

25 What we think would be appropriate would be for us

1 to do a partial motion for summary judgment along the lines
2 that was just suggested and the time line, but that be just to
3 kind of clear -- we would have a preliminary injunction in
4 place and, of course, if any of your rulings were kind of
5 contrary to that preliminary injunction that would -- that
6 would lift those items; but, otherwise, I think it would make
7 the most sense for that partial motion for summary judgment to
8 be meant to be a way to just narrow things for trial and then
9 there to be one final judgment that goes up on appeal.

10 And I think the difference between a kind of final
11 trial on the merits on certain claims and a partial summary
12 judgment motion is what matters there. It has to do with kind
13 of whether or not we end up with piecemeal appeals --

14 THE COURT: You better stop talking about a
15 contested motion for preliminary injunction because that
16 becomes appealable.

17 MS. LANG: Of course.

18 THE COURT: But, for example, if I were to rule in
19 favor of the United States on the statutory claim, I would
20 declare the contrary or conflicting Arizona statute to be
21 invalid and unenforceable and that's not appealable.

22 MS. LANG: That's exactly, Your Honor --

23 THE COURT: That's not preliminary.

24 MS. LANG: No, and that would be perfectly
25 acceptable to us and an appropriate way to move forward.

1 THE COURT: Yeah, but if you --

2 MS. LANG: I understand if there's -- if there's a
3 preliminary injunction, that's going to be appealable and, you
4 know, that is what it is.

5 What I didn't want to create was then another set of
6 kind of final injunctions at different times that would create
7 yet another set of separate appealable orders.

8 THE COURT: Well, I think it's a little premature to
9 be -- you can worry about it all you want, but I'm not
10 worrying about that partial for even a minute.

11 MS. LANG: But partial summary judgment motions in
12 the summer are agreeable to the non-US plaintiffs --

13 THE COURT: Okay.

14 MS. LANG: -- and that's all I wanted to clarify,
15 Your Honor.

16 THE COURT: Let me turn to Mr. Langhofer.

17 I don't know whether or not you have a partial
18 summary judgment motion that you want to file, but is the
19 proposed schedule of May 1, June 1, July 1 agreeable to you?

20 MR. LANGHOFER: Yes, your Honor, that should be
21 fine.

22 THE COURT: Okay. All right, good. So here's what
23 I'm doing today: I'm entering a limited case management order
24 with the discovery deadlines that the parties have agreed to
25 and the expert disclosure deadlines that the parties have

1 agreed to.

2 I'm going to set a deadline, however, for
3 dispositive motions on May 1, which is substantially in
4 advance of the close of discovery, with responses due June 1
5 and replies July 1, and we will have whatever hearing, if any,
6 is necessary for that; and I don't think I can go beyond that
7 today except to suggest that the parties -- that it's
8 important for the parties to meet and confer -- the defendants
9 aren't planning to initiate any discovery, but I think that it
10 would be incumbent upon plaintiffs' counsel to meet as soon as
11 you can with attorneys for the State of Arizona and the
12 Secretary of State to resolve with them what discovery you can
13 get from them and to determine what third-party discovery you
14 need and to get on that as quickly as possible.

15 MS. BRAILEY: Your Honor?

16 THE COURT: Yes.

17 MS. BRAILEY: For the partial motion for summary
18 judgment, the United States can agree to the plan to file its
19 motion before the close of discovery. However, we would
20 respectfully ask if Your Honor would reconsider May 1st and
21 allow the deadline for May 15th.

22 THE COURT: No, I think May 1st is reasonable --

23 MS. BRAILEY: Okay.

24 THE COURT: -- considering, especially from the
25 United States' perspective, the very narrow, very discrete

1 issue that I'm sure you've already given substantial thought
2 to.

3 MS. BRAILEY: Okay, thank you.

4 THE COURT: That's all, I think, I want to talk
5 about today, unless there's something else from the
6 plaintiffs, Ms. Lang?

7 MS. LANG: Your Honor, well, not from me in
8 particular, but I think probably Ms. Ward is standing for the
9 same reason, which is whether or not Your Honor is going to
10 impose specific discovery limits?

11 There has been, you know, during -- at the time of
12 the 26(f) conference the parties were substantially far apart.
13 I think we've actually come quite a bit closer in our thoughts
14 about discovery limits.

15 THE COURT: I am imposing the limits under the
16 federal rules for the time being, and if you can agree to
17 something in excess of that, that's fine. If you can't, we
18 can chat at a discovery conference.

19 MS. LANG: That's perfectly fine with us, Your
20 Honor. I assume that's per plaintiff group for the federal
21 rules?

22 THE COURT: That's a good question. No, it's not,
23 because I don't see how they could be significantly different.
24 I know you said, "Oh, well, that means we only get two each";
25 but you need to coordinate. As I said, this is one case and

1 we don't want to have 25 sets of interrogatories -- or 25
2 interrogatories being sent out by each plaintiff's group
3 because I've lost track of how many there are, but it's six or
4 seven.

5 MS. LANG: It's a large number, Your Honor. Can I
6 just raise a couple concerns?

7 THE COURT: No, no. You need to come up with your
8 set of interrogatories, send them to the defendants and then
9 if it's insufficient, tell them, which I'm sure they'll
10 reasonably consider, why you need more because --

11 MS. LANG: Some plaintiffs already filed a great
12 deal of discovery without conferring with the other groups,
13 and so a large number of requests have already gone out
14 without the other groups' input.

15 THE COURT: Have they been responded to?

16 MS. LANG: Yes -- some of them, yes, your Honor.

17 MR. MORGAN: Your Honor, we are -- we received some
18 RFPs I believe before I was -- entered an appearance of
19 counsel. There might have been some other discovery requests.

20 Look, I'm perfectly happy to have the conversation
21 you want us to have with them, Judge. I think that makes the
22 most sense.

23 THE COURT: Yeah, you need to just talk to -- did
24 any go out to the Republican National Party, Mr. Langhofer?

25 MS. LANG: No.

1 THE COURT: "No," okay. So we're okay with them.
2 Just tell them that, "They sent these sets of
3 interrogatories. We didn't all have input. We need three
4 more questions that are really important."

5 MS. LANG: Sure.

6 THE COURT: I mean, the Secretary of State and the
7 Attorney General are going to try to get you everything you
8 need as fast as they can because they have -- they have
9 earlier deadlines than you do. I mean, your deadline is the
10 election. Their deadline is well in advance of some election.

11 MS. LANG: I appreciate that, Your Honor. My -- my
12 only other concern I'll put on your radar, and I understand
13 you don't want to deal with it today, is there are some claims
14 where there are factual discovery that's just not shared at
15 all.

16 So, for example, the documentary proof of residence
17 claim is only brought by two plaintiff groups, and so I have a
18 great deal of concern about being able to get adequate
19 discovery on documentary proof of residence. Similarly --

20 THE COURT: I thought we might have a motion for
21 summary judgment about whether or not some of those issues
22 have already previously been decided in a consent decree, but
23 maybe I'm just speculating about that.

24 MS. LANG: Yes.

25 MR. MORGAN: Yes, your Honor, it's a very good

1 point.

2 THE COURT: Wasn't the consent decree entered into
3 by the State of Arizona?

4 MR. MORGAN: Yes, I believe it was, Your Honor.

5 THE COURT: And unless they're going to pull back
6 from that, I don't see how some of that's going to continue to
7 be an issue.

8 MS. WARD: Your Honor, I don't think that it is
9 going to be an issue going forward. Granted, I will say I
10 understand Ms. Lang's concerns, given some of the arguments
11 that were put forth in the motion to dismiss, but I think we
12 will reach a resolution on a lot of these things.

13 THE COURT: I do, too.

14 MS. LANG: I have similar concerns about our
15 Section 2 claim, but it sounds like we will have good partners
16 in our opposing counsel that will help us resolve that; and I
17 think we should be able to do that among the parties and
18 hopefully not bother Your Honor with such kind of ticky-tacky
19 questions.

20 THE COURT: Okay. Anything else, Mr. Langhofer?

21 MR. LANGHOFER: Only one thing, Your Honor, and
22 mostly just by way of a heads up. We understand the Attorney
23 General representing the State will be changing positions
24 somewhat. The extent of that's not quite clear yet, but
25 depending on the change we think it's likely we'll see a

1 motion to intervene between the Arizona State House and
2 Senate. It's not been filed yet. They may decide not to file
3 it, but just as an FYI that may be coming.

4 THE COURT: Thanks for the heads up.

5 Okay, that's all.

6 MR. MAKKER: Your Honor, Your Honor, this is Amit
7 Makker from Latham & Watkins on behalf of the AANHPI
8 plaintiffs.

9 One thing I wanted to raise, I thought I heard you
10 say that in the order you were contemplating at the close of
11 this hearing was perhaps something regarding amended
12 pleadings. If I heard that right, I just wanted to state that
13 there was something raised in the AG's answer last week that
14 may require a small amendment or supplementation on our part.
15 So I just want to make sure that we weren't foreclosed from
16 doing that, if necessary?

17 THE COURT: Well, at the moment you are; but, again,
18 you can talk to the other side and see what they think. If
19 you stipulate to it, it's not a problem. If you don't, you'll
20 have to explain to me why I should allow a new pleading after
21 we have so many already. So that's my comment on that.

22 MR. MAKKER: Okay, thank you.

23 THE COURT: Okay, court is in recess.

24 *(Whereupon the proceedings concluded at 12:46 p.m.)*

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REPORTER'S CERTIFICATION

I, TERE VERES, do hereby certify that I am duly appointed and qualified to act as Official Court Reporter for the United States District Court for the District of Arizona.

I FURTHER CERTIFY that the foregoing pages constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction and control.

DATED at Phoenix, Arizona, this 24th of March, 2023.

s/Teri Veres
TERI VERES, RMR, CRR

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EXHIBIT 32

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mi Familia Vota, et al.,
Plaintiffs,

v.

Adrian Fontes, in his official capacity as
Arizona Secretary of State, et al.,
Defendants.

Case No. 2:22-cv-00509-SRB
(Lead)

**CONSOLIDATED PLAINTIFFS’
FIRST SET OF
INTERROGATORIES TO
DEFENDANT ADRIAN FONTES, IN
HIS OFFICIAL CAPACITY AS
ARIZONA SECRETARY OF STATE**

AND CONSOLIDATED CASES.

No. CV-22-00519-PHX-SRB
No. CV-22-01003-PHX-SRB
No. CV-22-01124-PHX-SRB
No. CV-22-01369-PHX-SRB
No. CV-22-01381-PHX-SRB
No. CV-22-01602-PHX-SRB
No. CV-22-01901-PHX-SRB

PROPOUNDING PARTY: Consolidated Plaintiffs
RESPONDING PARTY: Defendant Adrian Fontes, in his official capacity as
Arizona Secretary of State
SET NUMBER: ONE (1)

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1 Pursuant to Federal Rules of Civil Procedure 26 and 33, consolidated Plaintiffs, by
2 and through counsel, serve the following Interrogatories upon Defendant Adrian Fontes, in
3 his official capacity as Arizona Secretary of State (“Defendant”).

4 Responses to these Interrogatories must be produced within thirty (30) days after
5 service in accordance with Rule 33. As agreed among the parties, all discovery responses
6 shall be produced to all counsel of record. Each Interrogatory is subject to the Definitions
7 and Instructions set forth below.

8 DEFINITIONS

9 Except as specifically defined below, the terms used in these Interrogatories shall
10 be construed and defined in accordance with the Federal Rules of Civil Procedure,
11 wherever applicable. Any terms not defined shall be given their ordinary meaning.

12 1. “Challenged Laws” means Arizona House Bill 2492 signed into law by the
13 Governor on March 30, 2022, Chapter 99 to Session Laws from the Fifty-fifth
14 Legislature Second Regular Session 2022, and Arizona House Bill 2243 signed into law
15 by the Governor on July 6, 2022, Chapter 370 to Session Laws from the Fifty-fifth
16 Legislature Second Regular Session 2022.

17 2. “H.B. 2492” refers to the Arizona House Bill 2492 signed into law by the
18 Governor on March 30, 2022 as alleged in the Complaint, Chapter 99 to Session Laws
19 from the Fifty-fifth Legislature Second Regular Session 2022.

20 3. “H.B. 2243” refers to the Arizona House Bill 2243 signed into law by the
21 Governor on July 6, 2022 as alleged in the Complaint, Chapter 370 to Session Laws from
22 the Fifty-fifth Legislature Second Regular Session 2022.

23 4. “Document” has the meaning prescribed in the Federal Rules of Civil
24 Procedure, including but not limited to Rules 26 and 34. The term “Document” shall be
25 interpreted in the broadest sense possible and includes Documents in any form, including
26 by way of example and without limitation, originals and copies of letters, memoranda,
27 notes, records, minutes, reports, notebooks, messages, emails, telegrams, ledgers, legal
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1 instruments, legal opinions to the extent that they are not protected by the attorney client
2 privilege or attorney work product doctrines, agreements, manuals, procedures, graphs,
3 rough drafts, secretarial notes, work pads, films or videos, photographs, computer disks
4 and other electronic media, books, publications, advertisements, literature, brochures,
5 announcements, press releases, and includes without limitation all tangible things which
6 come within the meaning of the terms “writings and recordings” used in Federal Rule of
7 Evidence 1001 and all electronically stored information, and includes data and data files,
8 and underlying data or data files, whether in raw or processed form. A draft or nonidentical
9 copy is a separate document within the meaning of this term. The term “Document” also
10 includes the term “Thing” construed under the broadest possible construction under the
11 Federal Rules of Civil Procedure.

12 5. “Nonstandard Address” means, but is not limited to, residential addresses
13 that do not include a complete address number and/or a street name; addresses that appear
14 to be directions (such as “between mile markers x and y” or “the second house on the left”);
15 addresses that include a complete address number and street name or otherwise resemble a
16 standard address, but are not listed in nontribal governmental databases; and other
17 addresses that lack address coordinators or are not typically geocoded.

18 6. “You,” “your,” and “Secretary of State” means Defendant Adrian Fontes in
19 his official capacity as Arizona Secretary of State, and includes any predecessors and
20 successors to the Arizona Secretary of State’s Office; any past and present employees, staff,
21 agents, assigns, and representatives of the Arizona Secretary of State’s Office; and any
22 other persons or entities that, at any time, acted on behalf or for the benefit of the Arizona
23 Secretary of State’s Office.

24 INSTRUCTIONS

25 You are to follow the instructions set forth below in responding to these
26 Interrogatories.

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1 1. Pursuant to Federal Rule of Civil Procedure 33(b)(4), if you object to any
2 part of an Interrogatory, set forth the basis of your objection and respond to all parts of the
3 interrogatory to which you do not object. Any ground not stated in a timely objection is
4 waived.

5 2. Where you, in good faith, doubt the meaning or intended scope of an
6 Interrogatory, before objecting to the Interrogatory based on its vagueness, overbreadth, or
7 ambiguity, contact Plaintiffs' counsel in advance of asserting an objection. Plaintiffs'
8 counsel will provide whatever additional clarification or explanation may be needed. If you
9 still believe the Interrogatory to be vague, overbroad, or ambiguous, set forth in your
10 response what you find to be vague, overbroad, or ambiguous and the construction you
11 used in responding.

12 3. If any objection is raised to these Interrogatories on the basis of an assertion
13 of privilege, you shall provide both a description of the basis of the privilege and all
14 information necessary for Plaintiff to assess the claim of privilege.

15 4. If you do not know the answer to any Interrogatory, or if there are limitations
16 to your knowledge about the answer to any Interrogatory, provide whatever answer you
17 can including the limitations to your knowledge. If there are other people or entities that
18 you believe may know the answer to any Interrogatory or may be able to provide additional
19 information in response to any Interrogatory, identify those people or entities in your
20 response.

21 5. Pursuant to Federal Rule of Civil Procedure 26(e), you are under a duty to
22 promptly supplement or correct your responses to these Interrogatories if you learn that a
23 response is in some material respect incomplete or incorrect. If you expect to obtain further
24 information or expect the accuracy of a response given to change between the time
25 responses are served and the time of trial, you are requested to state this fact in each
26 response. Supplementary answers are to be served upon Plaintiffs' counsel as soon as
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1 practicable after you receive this new information, but, in any event, no later than 14 days
2 after its receipt.

3 **INTERROGATORIES**

4 **INTERROGATORY NO. 1:**

5 Please identify all databases or other sources of citizenship information that are
6 accessible to You or that you anticipate will become accessible to You, and which of those
7 are practicable to use in the ways required by the Challenged Laws. Your answer should
8 identify by name any witnesses who have or are likely to have knowledge or information
9 related to the identified databases.

10 **INTERROGATORY NO. 2:**

11 Identify every type of Document a person who resides in a location with only a
12 Nonstandard Address can use to prove the location of their residence under A.R.S. § 16-
13 123, including a description of all the elements each document must contain to satisfy the
14 proof of location of residence requirement and an explanation of the basis of Your belief
15 that persons who reside in locations with only Nonstandard Addresses have such
16 documents available to them. Your answer should identify by name any witnesses who
17 have or are likely to have knowledge or information about the availability of satisfactory
18 documents for persons residing in locations with only Nonstandard Addresses.

19 **INTERROGATORY NO. 3:**

20 Identify all laws, rules, and methods for preventing voting fraud in Arizona prior to
21 the enactment of the challenged laws, including (but not limited to) laws, rules, and
22 methods for preventing noncitizens from voting, and describe the process for investigating
23 and prosecuting allegations of voter fraud.

24 **INTERROGATORY NO. 4:**

25 Identify all sources of citizenship information that the Challenged Laws require
26 election officials to use and describe what makes such sources “potentially outdated and
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1 unreliable,” “faulty,” or “not accurately reflect current U.S. citizenship status.” (See SOS’s
2 Answers to LUCHA’s FAC ¶¶ 100, 102.)

3 **INTERROGATORY NO. 6:**

4 Identify any evidence of (including the names of any individuals who have or are
5 likely to have knowledge, information, or evidence of) voter fraud committed by non-
6 citizens or non-residents in Arizona from January 1, 2016 to present, and describe how
7 each incident of such voter fraud was discovered or what evidence You have that such
8 fraud has occurred but was not discovered.

9 **INTERROGATORY NO. 7:**

10 Identify and describe the actions You take to facilitate compliance by public
11 assistance agencies, as defined by the NVRA, with the NVRA’s requirements that those
12 agencies provide voter registration services, including but not limited to your promulgation
13 and distribution of forms marked with a specific code for each agency, your guidance to
14 public assistance agencies, and your guidance to election officials processing voter
15 registration forms from public assistance agencies. Your answer should identify by name
16 any witnesses who have or are likely to have knowledge or information about the
17 Secretary’s role in facilitating public assistance agency compliance with the NVRA.

18 **INTERROGATORY NO. 8:**

19 Identify all laws, procedures, policies, and practices regarding how an in-person
20 voter’s citizenship is verified at the time that the voter casts a ballot versus how citizenship
21 is determined upon receipt of a valid and complete mail ballot in the same election.

22 **INTERROGATORY NO. 9:**

23 Identify and describe how the Arizona State Registration Form’s citizenship
24 attestation checkbox and birthplace information will be used under HB 2492 to determine
25 the voter’s qualification and how this process differs from pre-HB 2492 processes,
26 including references to relevant laws, policies, procedures, and practices.

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CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2023, I served the foregoing **CONSOLIDATED PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANT ADRIAN FONTES, IN HIS OFFICIAL CAPACITY AS ARIZONA SECRETARY OF STATE** on counsel of record for all parties by email.

Dated: May 17, 2023

/s/ Amit Makker

Amit Makker

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EXHIBIT 33

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mi Familia Vota, et al.,
Plaintiffs,

v.

Adrian Fontes, in his official capacity as
Arizona Secretary of State, et al.,
Defendants.

Case No. 2:22-cv-00509-SRB
(Lead)

**CONSOLIDATED PLAINTIFFS’
FIRST SET OF REQUESTS FOR
PRODUCTION TO DEFENDANT
ADRIAN FONTES, IN HIS
OFFICIAL CAPACITY AS
ARIZONA SECRETARY OF STATE**

AND CONSOLIDATED CASES.

No. CV-22-00519-PHX-SRB
No. CV-22-01003-PHX-SRB
No. CV-22-01124-PHX-SRB
No. CV-22-01369-PHX-SRB
No. CV-22-01381-PHX-SRB
No. CV-22-01602-PHX-SRB
No. CV-22-01901-PHX-SRB

PROPOUNDING PARTY: Consolidated Plaintiffs
RESPONDING PARTY: Defendant Adrian Fontes, in his official capacity as
Arizona Secretary of State
SET NUMBER: ONE (1)¹

¹ Plaintiff Arizona Asian American Native Hawaiian And Pacific Islander For Equity Coalition served its First Request for Production of Documents on the Arizona Secretary of State General on December 12, 2022. This is the First Set of Requests for Production to the Arizona Secretary of State served jointly by all consolidated Plaintiffs.

1 Pursuant to Federal Rules of Civil Procedure 26 and 34, consolidated Plaintiffs, by
2 and through counsel, serve the following requests for production upon Defendant Adrian
3 Fontes, in his official capacity as Arizona Secretary of State (“Defendant”).

4 Responses to these requests must be produced within thirty (30) days after service
5 in accordance with Rule 34. As agreed among the parties, all discovery responses and
6 documents shall be produced to all counsel of record. Each request for production is subject
7 to the Definitions and Instructions set forth below.

8 **DEFINITIONS**

9 Except as specifically defined below, the terms used in these requests shall be
10 construed and defined in accordance with the Federal Rules of Civil Procedure, wherever
11 applicable. Any terms not defined shall be given their ordinary meaning.

12 1. “Any” or “all” means “any and all.”

13 2. “Challenged Laws” means Arizona House Bill 2492 signed into law by the
14 Governor on March 30, 2022, Chapter 99 to Session Laws from the Fifty-fifth Legislature
15 Second Regular Session 2022, and Arizona House Bill 2243 signed into law by the
16 Governor on July 6, 2022, Chapter 370 to Session Laws from the Fifty-fifth Legislature
17 Second Regular Session 2022.

18 3. “H.B. 2492” refers to the Arizona House Bill 2492 signed into law by the
19 Governor on March 30, 2022 as alleged in the Complaint, Chapter 99 to Session Laws
20 from the Fifty-fifth Legislature Second Regular Session 2022.

21 4. “H.B. 2243” refers to the Arizona House Bill 2243 signed into law by the
22 Governor on July 6, 2022 as alleged in the Complaint, Chapter 370 to Session Laws from
23 the Fifty-fifth Legislature Second Regular Session 2022.

24 5. “Communication” means any transfer of information of any type, whether
25 written, oral, electronic, or otherwise, and includes transfers of information via email,
26 report, letter, text message, voicemail message, written memorandum, written notice, note,
27 summary, and other means. It includes communications entirely internal to the Arizona
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1 Secretary of State’s Office, as well as communications that include or are with entities and
2 individuals outside of the Arizona Secretary of State’s Office.

3 6. “Document” is synonymous in meaning and scope to the term “document”
4 as used under Federal Rule of Civil Procedure 34 and “writings” and “recordings” as
5 defined in Federal Rules of Evidence 1001, and it includes, but is not limited to, records,
6 reports, lists, data, statistics, summaries, analyses, communications (as defined above), any
7 computer discs, tapes, printouts, emails, databases, and any handwritten, typewritten,
8 printed, electronically recorded, taped, graphic, machine-readable, or other material, of
9 whatever nature and in whatever form, including all non-identical copies and drafts thereof,
10 and all copies bearing any notation or mark not found on the original.

11 7. “Including” means “including but not limited to.”

12 8. “Nonstandard Address” means, but is not limited to, residential addresses
13 that do not include a complete address number and/or a street name; addresses that appear
14 to be directions (such as “between mile markers x and y” or “the second house on the left”);
15 addresses that include a complete address number and street name or otherwise resemble a
16 standard address, but are not listed in nontribal governmental databases; and other
17 addresses that lack address coordinators or are not typically geocoded

18 9. “Person” means not only natural persons, but also firms, partnerships,
19 associations, corporations, subsidiaries, divisions, departments, joint ventures,
20 proprietorships, syndicates, trust groups, and organizations; federal, state, or local
21 governments or government agencies, offices, bureaus, departments, or entities; other
22 legal, business, or government entities; and all subsidiaries, affiliates, divisions,
23 departments, branches, and other units thereof or any combination thereof.

24 10. “Racially Polarized Voting” means “the existence of a correlation between
25 the race of voters and the selection of certain candidates,” *Thornburg v. Gingles*, 478 U.S.
26 30 (1986).

1 11. “Registered Voter” means a person who has been added to the official list of
2 the eligible voters for any election held in Arizona, including all state, federal, and local
3 elections.

4 12. “Voter Registration Applicant” means a person who has submitted an
5 application to register to vote in Arizona, whether or not the application is deemed
6 complete.

7 13. “Voter Registration Information” means all Documents derived from a
8 person’s voter registration application and any other information maintained regarding the
9 applicant, voter, or canceled voter, including the first name, middle name, last name, suffix,
10 gender, complete registration address, birthdate, national origin, race, state-assigned voter
11 ID number, type of identification, documentation and/or identification number submitted,
12 date of registration application, date of registration (if any), voter registration status (e.g.,
13 denied, suspended, pending, registered, and including whether the person is a Federal-only,
14 Congress-only, or other status voter), and voter status (active, inactive, canceled, etc.)

15 14. “Voter Registration History” includes the following Communications,
16 Documents, and information for each voter or Voter Registration Applicant:

17 a. All Communications, records, or database entries (whether entered manually or
18 automatically generated) regarding the processing history, including the receipt,
19 acceptance, or denial of applications; review of supporting documents submitted
20 with the application; missing documents or records; additional documents
21 submitted; and reasons or acceptance, denial, or other actions;

22 b. Fields or other records that show what type of document or type of document
23 number was submitted with the application, specifically including a passport or
24 birth certificate, driver’s license number, as well as other items;

25 c. Data related to any correspondence that was sent to the applicant;

26 d. Data related to any correspondence that was received from the applicant; and

27 e. Fields that correspond to the Application, Status Reason, DL # Response Code
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1 Report, SSN Response Code Report, or any electronic records showing or
2 reflecting the comparison of voter information with any database or system.

3 15. “Relating to,” “regarding,” or “concurring” and their cognates are to be
4 understood in their broadest sense and shall be construed to include pertaining to,
5 commenting on, memorializing, reflecting, recording, setting forth, describing, evidencing,
6 or constituting.

7 16. “You,” “your,” and “Secretary of State” means Defendant Adrian Fontes in
8 his official capacity as Arizona Secretary of State, and includes any predecessors and
9 successors to the Arizona Secretary of State’s Office; any past and present employees, staff,
10 agents, assigns, and representatives of the Arizona Secretary of State’s Office; and any
11 other persons or entities that, at any time, acted on behalf or for the benefit of the Arizona
12 Secretary of State’s Office.

13 **INSTRUCTIONS**

14 You are to follow the instructions set forth below in responding to these requests.

15 1. You shall produce materials and serve responses and any objections on
16 Plaintiffs’ counsel within 30 days after service of these requests for production.

17 2. Pursuant to Federal Rule of Civil Procedure 34(b)(2)(B) and (C), if you
18 object to any part of a request, set forth the basis for your objection and respond to all parts
19 of the request to which you do not object. All objections must be noted with specificity.
20 Any ground not stated in a timely objection is waived.

21 3. If, in responding to these requests, you encounter any ambiguities when
22 construing a request or definition, set forth in your response what you find to be vague,
23 overbroad, or ambiguous and the construction you used in responding. Where you, in good
24 faith, doubt the meaning or intended scope of a request, and the sole objection would be to
25 its vagueness, overbreadth, or ambiguity, please contact Plaintiffs’ counsel for clarification
26 in advance of asserting an objection.

1 4. With respect to any document withheld on a claim of privilege or work
2 product protection, provide a written privilege log identifying each document individually
3 and containing all information required by Federal Rule of Civil Procedure 26(b)(5),
4 including a description of the basis of the claimed privilege and all information necessary
5 for Plaintiffs to assess the claim of privilege.

6 5. In accordance with the Federal Rules of Civil Procedure, the scope of
7 discovery sought through these requests for production extends to all relevant and non-
8 privileged materials that might reasonably lead to the discovery of admissible evidence.
9 You should produce all documents available to you or subject to your access or control that
10 are responsive to the following requests for production. This includes documents in your
11 actual or constructive possession or control, as well as any non-privileged information in
12 the actual or constructive possession or control of your attorneys, investigators, experts,
13 agents, and any other persons acting on your behalf.

14 6. Documents are to be produced as they are kept in the ordinary course of
15 business. Accordingly, documents should be produced in their entirety, without
16 abbreviation, redaction, or expurgation; file folders with tabs or labels identifying
17 documents responsive to this request should be produced intact with the documents; and
18 documents attached to each other should not be separated.

19 7. Subject to any Electronically Stored Information (“ESI”) order subsequently
20 entered in this case, all documents are to be produced in electronic form pursuant to these
21 instructions. All documents, including emails, should be produced in single page TIFF
22 format, showing comments and track changes where applicable, with text extract and
23 database load files containing standard fielded information and metadata. TIFF images
24 shall be placed in an Images folder with any given subfolder not to exceed 5,000 images
25 per folder and accompanied by an .opt placed in a Data folder. Each page of a document
26 should be assigned a unique production number (aka Bates number) electronically
27 “burned” onto the image at a location that does not unreasonably conceal or interfere with
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1 information on the document. The number should be consistent across the production,
2 contain no special characters, and be numerically sequential within a given document.
3 Attachments to documents should be assigned numbers that directly follow in sequential
4 order the Bates numbers on the documents to which they were attached. If a number or set
5 of numbers is skipped, the skipped number or set of numbers should be noted, for example
6 with a placeholder.

7 8. If there are no documents responsive to a particular request, so indicate in
8 your response. Similarly, to the extent that you do not have any means of recording the
9 information requested herein, please so indicate in your responses to the specific
10 production request.

11 9. If any otherwise responsive document was, but is no longer, in existence or
12 in your possession, custody, or control, identify the type of information contained in the
13 document, its current or last known custodian, the location/address of such document, and
14 the identity of all persons having knowledge or who had knowledge of the document, as
15 well as describe in full the circumstances surrounding its destruction, loss, or other
16 disposition from your possession or control.

17 10. These requests for production are continuing in nature, up to and during trial.
18 Materials sought by these requests for production that become available after you serve
19 your responses must be disclosed to counsel for Plaintiffs by supplementary response or
20 responses.

21 11. Pursuant to Federal Rule of Civil Procedure 26(e), you are under a duty to
22 promptly supplement or correct your responses to these requests for production if you learn
23 that an answer is in some material respect incomplete or incorrect. If you expect to obtain
24 further information or expect the accuracy of a response given to change between the time
25 responses are served and the time of trial, you should state this fact in each response.
26 Supplementary answers are to be served upon Plaintiffs' counsel as soon as practicable
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1 after you receive this new information, but, in any event, no later than 14 days after its
2 receipt.

3 12. If you contend that it would be unreasonably burdensome to obtain and
4 provide all of the documents called for in response to any document request or any
5 subsection thereof, then in response to the appropriate document request: (a) produce all
6 such documents as are available to you without undertaking what you contend to be an
7 unreasonably burdensome effort; (b) describe with particularity the efforts made by you or
8 on your behalf to produce such documents, including identification of persons consulted,
9 description of files, records and documents reviewed, and identification of each person
10 who participated in the gathering of such documents, with specification of the amount of
11 time spent and the nature of work done by such person, and (c) state with particularity the
12 grounds upon which you contend the additional efforts to produce such documents would
13 be unreasonably burdensome.

14 13. The past-tense forms of verbs in these requests include their present-tense
15 forms, and vice versa.

16 14. The singular form of a noun or pronoun includes the plural form, and the
17 plural form indicates the singular.

18 15. The connectives “and” and “or” shall be construed either disjunctively or
19 conjunctively as necessary to bring within the scope of a document production topic all
20 responses that otherwise might be construed to be outside its scope.

21 16. A reference to an entity, agency, department, or board in this request shall be
22 construed to include its officers, directors, partners, members, managers, employees,
23 representatives, agents, consultants, or anyone acting on its behalf.

24 **REQUESTS FOR PRODUCTION**

25 **REQUEST FOR PRODUCTION NO. 1:**

26 All Documents and Communications, including but not limited to any writings,
27 memoranda, presentations, correspondence (including internal communications), policies,
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1 procedures, guidelines, and reports (draft and final versions) related to Nonstandard
2 Addresses, including any document concerning how the State of Arizona or any Arizona
3 County has implemented voter registration and list maintenance programs that account for
4 voters with Nonstandard Addresses, any assistance to a Tribe or an enrolled Tribal member,
5 rural, or other resident of the State who uses a Nonstandard Address with voter registration,
6 precinct assignment, and/or assigning or identifying a standard residential street address
7 for a home(s), and the ability of voters to submit a description and/or graphic depiction of
8 their location of residence, using either the state or federal voter registration form.

9 **REQUEST FOR PRODUCTION NO. 2:**

10 All Documents and Communications from January 1, 2016, to the present
11 concerning the Elections Procedures Manual, as well as implementation and enforcement
12 of the consent decree reached in *LULAC v. Reagan*, No. 2:17-cv-04102-DGC.

13 **REQUEST FOR PRODUCTION NO. 3:**

14 All Documents and Communications concerning voter registration applications
15 submitted since January 1, 2020, for applicants who have used the option in the State Form
16 to “describe [the] location [of their residence] using mileage, cross streets, parcel #,
17 subdivision name/lot, or landmarks” and to “[d]raw a map and/or provide
18 latitude/longitude or geocode in Box 23 if located in a rural area without a traditional street
19 address” or the option in the Federal Form, to “show where [they] live” using the map in
20 Box C. This request includes documents related to applicants who have been successfully
21 registered and who have been denied voter registration or removed from the voter rolls.
22 This request also includes related Secretary correspondence, corresponding County or
23 voter responses, and any notes generated or maintained by the Secretary’s office regarding
24 moving a voter to inactive status or cancelling a registration.

25 **REQUEST FOR PRODUCTION NO. 4:**

26 All Documents and Communications from January 1, 2017, to the present relating
27 to the use of birthplace and citizenship attestation checkbox on the State Form, including
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1 but not limited to whether voter registration applicants were required to provide birthplace
2 or complete the citizenship attestation checkbox to be registered to vote, whether voter
3 registration applicants actually did provide such information, how frequently voter
4 registration applicants actually did provide a correct or incorrect birthplace, fail to provide
5 a birthplace, complete or fail to complete the citizenship attestation checkbox, or make
6 errors in completing the citizenship attestation checkbox, and whether voter applications
7 were rejected for failing to provide this information and/or the number of voter applicants
8 who timely cured their applications for these errors or omissions pertaining to birthplace
9 and/or the citizenship attestation checkbox.

10 **REQUEST FOR PRODUCTION NO. 5:**

11 All Documents and Communications from January 1, 2016, to the present regarding
12 misconduct, fraud, election security, or a lack of voter confidence in election integrity
13 related to citizenship, voters' residences, or proof of citizenship or residential addresses in
14 voter registration.

15 **REQUEST FOR PRODUCTION NO. 6:**

16 All Documents and Communications from January 1, 2016, to the present
17 concerning inequity (whether it be actual, potential, alleged, or perceived inequity) in
18 access to voter registration and voting and provision of voting resources among racial,
19 ethnic, national origin, or language minority communities; Racially Polarized Voting; and
20 Arizona's history of voting-related discrimination.

21 **REQUEST FOR PRODUCTION NO. 7:**

22 All Documents and Communications from January 1, 2016, to the present related to
23 voter registration forms the Secretary provides to each public assistance agency that,
24 pursuant to the NVRA, provides voter registration assistance, the Secretary's guidance to
25 public assistance agencies about the use of such forms, and the Secretary's guidance to
26 election officials about how to process such forms. Your response should include samples
27 of the forms promulgated for each public assistance agency.
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1 **REQUEST FOR PRODUCTION NO. 8:**

2 Any and all Documents and Communications, including but not limited to those
3 containing individual and aggregate data and Voter Registration Information and History,
4 relating to Voter Registration Applicants and Registered Voters who were denied,
5 challenged, removed, cancelled, and/or placed on Congressional-only or federal-only
6 status due to either (1) missing, inaccurate, non-matching, unverified, unverifiable, or
7 otherwise defective DPOC or (2) the results of a database search required by HB 2492 or
8 HB 2243, as well as: the reasons notices were sent to Voter Registration Applicants or
9 Registered Voters pursuant to HB 2492 and HB 2243; any draft and actual notices sent to
10 Voter Registration Applicants or Registered Voters pursuant to HB 2492 and HB 2243;
11 any responses and/or submissions—or lack thereof—in response to these notices; the
12 sufficiency of any responses and/or submissions to these notices; the final dispositions; and
13 the reasons for the denial, challenge, removal or cancellation of voter registration and/or
14 placement on Congressional-only or federal-only status, from January 1, 2022 onward.

15 **REQUEST FOR PRODUCTION NO. 9:**

16 All Documents referenced in, or relied upon in formulating, your responses to all
17 interrogatories in this matter.
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CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2023, I served the foregoing **CONSOLIDATED PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT ADRIAN FONTES, IN HIS OFFICIAL CAPACITY AS ARIZONA SECRETARY OF STATE** on counsel of record for all parties by email.

Dated: May 17, 2023

/s/Amit Makker

Amit Makker

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EXHIBIT 34

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mi Familia Vota, et al.,
Plaintiffs,

v.

Adrian Fontes, in his official capacity as
Arizona Secretary of State, et al.,
Defendants.

AND CONSOLIDATED CASES.

Case No. 2:22-cv-00509-SRB
(Lead)

**CONSOLIDATED PLAINTIFFS'
FIRST SET OF
INTERROGATORIES TO THE
DEFENDANT COUNTY
RECORDERS, IN THEIR OFFICIAL
CAPACITIES**

No. CV-22-00519-PHX-SRB
No. CV-22-01003-PHX-SRB
No. CV-22-01124-PHX-SRB
No. CV-22-01369-PHX-SRB
No. CV-22-01381-PHX-SRB
No. CV-22-01602-PHX-SRB
No. CV-22-01901-PHX-SRB

PROPOUNDING PARTY: Consolidated Plaintiffs

RESPONDING PARTY: Defendants Apache County Recorder Larry Noble;
Cochise County Recorder David W. Stevens;
Coconino County Recorder Patty Hansen;
Gila County Recorder Sadie Jo Bingham;
Graham County Recorder Polly Merriman;
Greenlee County Recorder Sharie Milheiro;
La Paz County Recorder Richard Garcia;
Maricopa County Recorder Stephen Richer;
Mohave County Recorder Kristi Blair;
Navajo County Recorder Michael Sample;

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Pima County Recorder Gabriella Cázares-Kelly;
Pinal County Recorder Dana Lewis;
Santa Cruz County Recorder Anita Moreno;
Yavapai County Recorder Michelle M. Burchill; and
Yuma County Recorder Richard Colwell, in their
official capacities

SET NUMBER: ONE (1)¹

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¹ Plaintiff Arizona Asian American Native Hawaiian And Pacific Islander For Equity Coalition served its First Request for Production of Documents on the County Recorders on December 12, 2022. This is the First Set of Requests for Production to the County Recorders served jointly by all consolidated Plaintiffs.

1 Pursuant to Federal Rules of Civil Procedure 26 and 33, consolidated Plaintiffs, by
2 and through counsel, serve the following Interrogatories upon Defendants Apache County
3 Recorder Larry Noble; Cochise County Recorder David W. Stevens; Coconino County
4 Recorder Patty Hansen; Gila County Recorder Sadie Jo Bingham; Graham County
5 Recorder Polly Merriman; Greenlee County Recorder Sharie Milheiro; La Paz County
6 Recorder Richard Garcia; Maricopa County Recorder Stephen Richer; Mohave County
7 Recorder Kristi Blair; Navajo County Recorder Michael Sample; Pima County Recorder
8 Gabriella Cázares-Kelly; Pinal County Recorder Dana Lewis; Santa Cruz County Recorder
9 Anita Moreno; Yavapai County Recorder Michelle M. Burchill; and Yuma County
10 Recorder Richard Colwell, in their official capacities (“Defendants” or “County
11 Recorders”).

12 Responses to these Interrogatories must be produced within thirty (30) days after
13 service in accordance with Rule 33. As agreed among the parties, all discovery responses
14 and documents shall be produced to all counsel of record. Each Interrogatory is subject to
15 the Definitions and Instructions set forth below.

16 **DEFINITIONS**

17 Except as specifically defined below, the terms used in these Interrogatories shall
18 be construed and defined in accordance with the Federal Rules of Civil Procedure,
19 wherever applicable. Any terms not defined shall be given their ordinary meaning.

- 20 1. “Any” or “all” means “any and all.”
- 21 2. “Challenged Laws” means Arizona House Bill 2492 signed into law by the
22 Governor on March 30, 2022, Chapter 99 to Session Laws from the Fifty-fifth Legislature
23 Second Regular Session 2022, and Arizona House Bill 2243 signed into law by the
24 Governor on July 6, 2022, Chapter 370 to Session Laws from the Fifty-fifth Legislature
25 Second Regular Session 2022.
- 26 3. “Citizenship Checkbox” means the “yes” box next to the question regarding
27 citizenship on a voter registration form, as described in A.R.S. § 16-121.01.
- 28 4. “Communication” means any transfer of information of any type, whether
written, oral, electronic, or otherwise, and includes transfers of information via email,

1 report, letter, text message, voicemail message, written memorandum, note, summary, and
2 other means. It includes communications entirely internal to the County Recorder’s office,
3 as well as communications that include or are with entities and individuals outside of the
4 County Recorder’s office.

5 5. “Document” is synonymous in meaning and scope to the term “document”
6 as used under Federal Rule of Civil Procedure 34 and “writings” and “recordings” as
7 defined in Federal Rules of Evidence 1001, and it includes, but is not limited to, records,
8 reports, lists, data, statistics, summaries, analyses, communications (as defined above), any
9 computer discs, tapes, printouts, emails, databases, and any handwritten, typewritten,
10 printed, electronically recorded, taped, graphic, machine-readable, or other material, of
11 whatever nature and in whatever form, including all non-identical copies and drafts thereof,
12 and all copies bearing any notation or mark not found on the original.

13 6. “DPOC” means documentary proof of citizenship as required for voter
14 registration under the Challenged Laws.

15 7. “DPOR” means documentary proof of location of residence as required for
16 voter registration under the Challenged Laws.

17 8. “Federal Form” means the federal mail voter registration application form
18 developed by the U.S. Election Assistance Commission pursuant to the National Voter
19 Registration Act.

20 9. “Including” means “including but not limited to.”

21 10. “Nonstandard Address” means, but is not limited to, residential addresses
22 that do not include a complete address number and/or a street name; addresses that appear
23 to be directions (such as “between mile markers x and y” or “the second house on the left”);
24 addresses that include a complete address number and street name or otherwise resemble a
25 standard address, but are not listed in nontribal governmental databases; and other
26 addresses that lack address coordinators or are not typically geocoded.

27 11. “Person” means not only natural persons, but also firms, partnerships,
28 associations, corporations, subsidiaries, divisions, departments, joint ventures,
proprietorships, syndicates, trust groups, and organizations; federal, state, or local

1 governments or government agencies, offices, bureaus, departments, or entities; other
2 legal, business, or government entities; and all subsidiaries, affiliates, divisions,
3 departments, branches, and other units thereof or any combination thereof.

4 12. “Registered Voter” means a person who has been added to the official list of
5 eligible voters for any election held in Arizona, including those voters whose registration
6 is limited to “Federal Only” ballots.

7 13. “Relating to,” “regarding,” or “concurring” and their cognates are to be
8 understood in their broadest sense and shall be construed to include pertaining to,
9 commenting on, memorializing, reflecting, recording, setting forth, describing, evidencing,
10 or constituting.

11 14. “State Form” means any voter registration form prescribed by the Secretary
12 of State, as described in A.R.S. § 16-152.

13 15. “You,” “your,” “Defendants” and “County Recorders” means Defendants
14 Apache County Recorder Larry Noble; Cochise County Recorder David W. Stevens;
15 Coconino County Recorder Patty Hansen; Gila County Recorder Sadie Jo Bingham;
16 Graham County Recorder Wendy John; Greenlee County Recorder Sharie Milheiro; La
17 Paz County Recorder Richard Garcia; Maricopa County Recorder Stephen Richer; Mohave
18 County Recorder Kristi Blair; Navajo County Recorder Michael Sample; Pima County
19 Recorder Gabriella Cázares-Kelly; Pinal County Recorder Dana Lewis; Santa Cruz County
20 Recorder Suzanne Sainz; Yavapai County Recorder Michelle M. Burchill; and Yuma
21 County Recorder Richard Colwell, in their official capacities, and includes any
22 predecessors and successors to your offices; any past and present employees, staff, agents,
23 assigns, and representatives of your offices; and any other persons or entities that, at any
24 time, acted on behalf or for the benefit of your offices.

25 16. “Voter Registration Applicant” means a person who has submitted an
26 application to register to vote in Arizona, whether or not the application is deemed
27 complete.

28 17. “Voter Registration Information” means all Documents derived from a
person’s voter registration application and any other information maintained regarding the

1 applicant, voter, or canceled voter, including all identifying information, voter registration
2 status and history, voting history, gender, sex, race and/or national origin information, and
3 all data maintained within the statewide voter file as well as any local database maintained
4 by Your office.

5 18. “Voter Registration History” includes the following Communications,
6 Documents, and information for each voter:

- 7 a. All Communications, records, or database entries (whether entered manually
8 or automatically generated) regarding the processing history, including the receipt,
9 acceptance, or denial of applications; review of supporting documents submitted
10 with the application; missing documents or records; additional documents
11 submitted; and reasons for acceptance, denial, or other actions;
- 12 b. Fields or other records that show what type of document or type of document
13 number was submitted with the application, specifically including a passport or birth
14 certificate, driver’s license number, as well as other items;
- 15 c. Data related to any correspondence that was sent to the applicant;
- 16 d. Data related to any correspondence that was received from the applicant; and
- 17 e. Fields that correspond to the Application, Status Reason, DL # Response
18 Code Report, SSN Response Code Report, or any electronic records showing or
19 reflecting the comparison of voter information with any database or system.

20 **INSTRUCTIONS**

21 You are to follow the instructions set forth below in responding to these
22 Interrogatories.

23 1. Pursuant to Federal Rule of Civil Procedure 33(b)(4), if you object to any
24 part of an Interrogatory, set forth the basis of your objection and respond to all parts of the
25 interrogatory to which you do not object. Any ground not stated in a timely objection is
26 waived.

27 2. Where you, in good faith, doubt the meaning or intended scope of an
28 Interrogatory, before objecting to the Interrogatory based on its vagueness, overbreadth, or

1 ambiguity, contact Plaintiffs' counsel in advance of asserting an objection. Plaintiffs'
2 counsel will provide whatever additional clarification or explanation may be needed. If you
3 still believe the Interrogatory to be vague, overbroad, or ambiguous, set forth in your
4 response what you find to be vague, overbroad, or ambiguous and the construction you
5 used in responding.

6 3. If any objection is raised to these Interrogatories on the basis of an assertion
7 of privilege, you shall provide both a description of the basis of the privilege and all
8 information necessary for Plaintiff to assess the claim of privilege.

9 4. If, after a reasonable inquiry, you do not know the answer to any
10 Interrogatory, or if there are limitations to your knowledge about the answer to any
11 Interrogatory, provide whatever answer you can including the limitations to your
12 knowledge. If there are other people or entities that you believe may know the answer to
13 any Interrogatory or may be able to provide additional information in response to any
14 Interrogatory, identify those people or entities in your response.

15 5. Pursuant to Federal Rule of Civil Procedure 26(e), you are under a duty to
16 promptly supplement or correct your responses to these Interrogatories if you learn that a
17 response is in some material respect incomplete or incorrect. If you expect to obtain further
18 information or expect the accuracy of a response given to change between the time
19 responses are served and the time of trial, you are requested to state this fact in each
20 response. Supplementary answers are to be served upon Plaintiffs' counsel as soon as
21 practicable after you receive this new information, but, in any event, no later than 14 days
22 after its receipt.

23 **INTERROGATORIES**

24 **INTERROGATORY NO. 1:**

25 Identify and describe each way that Your office uses or would use information
26 related to the birthplace of a Voter Registration Applicant—including Applicants for whom
27 you already have DPOC--to verify such person's eligibility to vote, including but not
28 limited to each way in which a Voter Registration Applicant's failure to provide their
birthplace affects or would affect Your ability to confirm the Voter Registration

1 Applicant's identity or determine whether that person is eligible to register and vote in
2 Arizona. Your answer should identify by name any witnesses who have or are likely to
3 have knowledge or information related to how such information is or would be used by
4 Your office.

5 **INTERROGATORY NO. 2:**

6 Identify and describe Your office's processes and procedures for checking the
7 citizenship or residence address or location of Registered Voters or Voter Registration
8 Applicants both before and after the Challenged Laws were enacted, including but not
9 limited to any Documents and Communications that describe or explain how Your office
10 should determine citizenship and residence address or location of a Registered Voter or
11 Voter Registration Applicant. Your answer should identify by name any witnesses who
12 have or are likely to have knowledge or information related to such agreements, or the
13 relevant information contained in such databases.

14 **INTERROGATORY NO. 3:**

15 Identify and describe each way in which a Voter Registration Applicant's failure to
16 check the Citizenship box on the State Form affects or would affect Your ability to
17 determine whether that person is eligible to register and vote in Arizona, including but not
18 limited to cases where you have DPOC for the Voter Registration Applicant.

19 **INTERROGATORY NO. 4:**

20 Identify all sources of citizenship information that are accessible to You or that you
21 anticipate will become accessible to you, and which of those are practicable to use in the
22 ways required by the Challenged Laws including any and all Documents, Communications,
23 or Agreements pertaining to the process to confirm DPOC or DPOR, such as any
24 agreements Your office has to utilize any database or systems (including but not limited to
25 the SAVE system), all documentation concerning the use of such systems to confirm
26 DPOC or DPOR (terms, matching algorithms, rules, criteria, or processes used to conduct
27 database searches), and any Communications pertaining to such database searches or their
28 results. Your answer should identify by name any witnesses who have or are likely to have
knowledge or information related to the identified databases.

1 **INTERROGATORY NO. 5:**

2 Identify and describe each instance where a database search on a Voter Registration
3 Applicant or Registered Voter yielded inaccurate or outdated U.S. citizenship information
4 or a challenge to a voter's registration or ballot relied on inaccurate or outdated U.S.
5 citizenship information, including but not limited to instances where the database search
6 or challenge process incorrectly determined a Voter Registration Applicant or Registered
7 Voter was not a U.S. citizen, and whether such person flagged as an alleged noncitizen had
8 actually naturalized. Your response should include both erroneous initial determinations of
9 non-citizenship later corrected or updated, as well as rejected challenges to a voter's
10 registration or ballot based on inaccurate, or outdated U.S. Citizenship information or
11 allegations of non-U.S. citizenship.

12 **INTERROGATORY NO. 6:**

13 Identify and describe Your office's processes and procedures for processing voter
14 registration applications with nonstandard addresses, including but not limited to all
15 processes and procedures concerning how You have implemented voter registration and
16 list maintenance programs for voters with nonstandard addresses, any assistance provided
17 to a tribe or a tribal, rural, or other resident within Your jurisdiction who uses a nonstandard
18 address with voter registration, precinct assignment, and/or assigning a standard residential
19 street address to such Voter Registration Applicants, and the ability of Voter Registration
20 Applicants to submit a description and/or graphic depiction of their location of residence,
21 using either the State Form or Federal Form.

22 **INTERROGATORY NO. 7:**

23 Identify every type of document a person who resides in a location with only a
24 Nonstandard Address can use to prove the location of their residence under A.R.S. § 16-
25 123, including a description of all the elements each document must contain to satisfy the
26 proof of location of residence requirement and an explanation of the basis of Your belief
27 that persons who reside in locations with only Nonstandard Addresses have such
28 documents available to them. Your answer should identify by name any witnesses who

1 have or are likely to have knowledge or information about the availability of satisfactory
2 documents for persons residing in locations with only Nonstandard Addresses.

3 **INTERROGATORY NO. 8:**

4 Identify and describe each method by which Registered Voters or Voter Registration
5 Applicants can appeal, contest, or cure decisions by Your office based on a finding of non-
6 citizenship or absence of DPOC or failure to check the Citizenship Checkbox, failure to
7 prove location of residence or an absence of DPOR, or failure to provide their birthplace
8 on their registration application, including but not limited to the standards applied in
9 considering any such effort to appeal, contest, or cure such decisions, the notice provided
10 to the Voter Registration Applicant or Registered Voter of the outcome of any such effort,
11 any Documents and Communications that describe or explain such methods, standards, and
12 notice, and each instance since January 1, 2017 in which a Registered Voter or Voter
13 Registration Applicant has availed themselves of such methods to appeal, contests, or cure
14 such decision and the outcome of each such effort.

14 **INTERROGATORY NO. 9:**

15 Identify and describe each instance in which You have established that a non-U.S.
16 citizen or non-County resident has registered to vote or has voted in Your County from
17 January 1, 2013 to present, including but not limited to any supporting evidence thereof,
18 any Documents and Communications related to such instance, whether such instance
19 involved misconduct, fraud, or mistake, and any instance in which Your office informed
20 such non-U.S. citizen or non-County resident they were eligible to vote in the County and
21 later determined they were actually ineligible. Your answer should identify by name any
22 witnesses who have or are likely to have knowledge or information related to any such
23 instance of a non-U.S. citizen or non-County resident registering or voting in Your County.

24 **INTERROGATORY NO. 10:**

25 Identify all state and county interests that you believe are furthered by the
26 Challenged Laws and all evidence that either supports or undermines the contention that
27 the Challenged Laws further those interests. Your answer should specify which alleged
28 state or county interest(s) support each challenged provision of the Challenged Laws and

1 the connection between the alleged state or county interests and challenged provisions.
2 Your answer should also identify by name any witnesses who have or are likely to have
3 knowledge or information related to the importance of the state interests identified in this
4 answer and how the Challenged Laws are likely to interact with those interests.

5 **INTERROGATORY NO. 11:**

6 For every Request for Production served on You in this matter, please describe the
7 methodology for Your search for responsive documents and productions, including but not
8 limited to identifying the individuals who assisted in the search, custodians, search terms,
9 date ranges, protocols for retention of metadata, and methods for collection and review for
10 responsiveness and privilege.

11 **INTERROGATORY NO. 12:**

12 FOR DEFENDANTS MARICOPA COUNTY RECORDER STEVEN RICHER AND
13 PIMA COUNTY RECORDER GABRIELLA CAZARES-KELLY ONLY:

14 Describe in detail Your County's voter registration database system and how it
15 relates to the voter registration database maintained by the Secretary of State, including the
16 software and vendor Your database relies upon, all data fields and voter information
17 maintained in Your database and how they differ, if at all, from the Secretary of State's
18 statewide database, how the data fields are inputted, updated, and maintained in Your
19 database, and how Your database shares information with the Secretary of State's statewide
20 database. Your answer should identify by name any witnesses who have or are likely to
21 have knowledge or information related to Your County's voter registration database.
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/s/ Christopher D. Dodge

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/s/ Ernest Herrera

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CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2023, I served the foregoing **CONSOLIDATED PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT COUNTY RECORDERS, IN THEIR OFFICIAL CAPACITIES** on counsel of record for all parties by email.

Dated: May 30, 2023

/s/ Danielle Lang

Danielle Lang

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EXHIBIT 35

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mi Familia Vota, et al.,
Plaintiffs,

v.

Adrian Fontes, in his official capacity as
Arizona Secretary of State, et al.,
Defendants.

Case No. 2:22-cv-00509-SRB
(Lead)

**CONSOLIDATED PLAINTIFFS’
FIRST SET OF REQUESTS FOR
PRODUCTION TO THE
DEFENDANT COUNTY
RECORDERS, IN THEIR OFFICIAL
CAPACITIES**

AND CONSOLIDATED CASES.

- No. CV-22-00519-PHX-SRB
- No. CV-22-01003-PHX-SRB
- No. CV-22-01124-PHX-SRB
- No. CV-22-01369-PHX-SRB
- No. CV-22-01381-PHX-SRB
- No. CV-22-01602-PHX-SRB
- No. CV-22-01901-PHX-SRB

PROPOUNDING PARTY: Consolidated Plaintiffs

RESPONDING PARTY: Defendants Apache County Recorder Larry Noble;
Cochise County Recorder David W. Stevens;
Coconino County Recorder Patty Hansen;
Gila County Recorder Sadie Jo Bingham;
Graham County Recorder Polly Merriman;
Greenlee County Recorder Sharie Milheiro;
La Paz County Recorder Richard Garcia;
Maricopa County Recorder Stephen Richer;
Mohave County Recorder Kristi Blair;

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Navajo County Recorder Michael Sample;
Pima County Recorder Gabriella Cázares-Kelly;
Pinal County Recorder Dana Lewis;
Santa Cruz County Recorder Anita Moreno;
Yavapai County Recorder Michelle M. Burchill; and
Yuma County Recorder Richard Colwell, in their
official capacities

SET NUMBER: ONE (1)¹

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¹ Plaintiff Arizona Asian American Native Hawaiian And Pacific Islander For Equity Coalition served its First Request for Production of Documents on the County Recorders on December 12, 2022. This is the First Set of Requests for Production to the County Recorders served jointly by all consolidated Plaintiffs.

1 Pursuant to Federal Rules of Civil Procedure 26 and 34, consolidated Plaintiffs, by
2 and through counsel, serve the following requests for production upon Defendants
3 Defendants Apache County Recorder Larry Noble; Cochise County Recorder David W.
4 Stevens; Coconino County Recorder Patty Hansen; Gila County Recorder Sadie Jo
5 Bingham; Graham County Recorder Polly Merriman; Greenlee County Recorder Sharie
6 Milheiro; La Paz County Recorder Richard Garcia; Maricopa County Recorder Stephen
7 Richer; Mohave County Recorder Kristi Blair; Navajo County Recorder Michael Sample;
8 Pima County Recorder Gabriella Cázares-Kelly; Pinal County Recorder Dana Lewis; Santa
9 Cruz County Recorder Anita Moreno; Yavapai County Recorder Michelle M. Burchill;
10 and Yuma County Recorder Richard Colwell, in their official capacities
11 (“Defendants” or “County Recorders”).

12 Responses to these requests must be produced within thirty (30) days after service
13 in accordance with Rule 34. As agreed among the parties, all discovery responses and
14 documents shall be produced to all counsel of record. Each request for production is subject
15 to the Definitions and Instructions set forth below.

16 **DEFINITIONS**

17 Except as specifically defined below, the terms used in these requests shall be
18 construed and defined in accordance with the Federal Rules of Civil Procedure, wherever
19 applicable. Any terms not defined shall be given their ordinary meaning.

- 20 1. “Any” or “all” means “any and all.”
- 21 2. “Challenged Laws” means Arizona House Bill 2492 signed into law by the
22 Governor on March 30, 2022, Chapter 99 to Session Laws from the Fifty-fifth Legislature
23 Second Regular Session 2022, and Arizona House Bill 2243 signed into law by the
24 Governor on July 6, 2022, Chapter 370 to Session Laws from the Fifty-fifth Legislature
25 Second Regular Session 2022.
- 26 3. “Citizenship Checkbox” means the “yes” box next to the question regarding
27 citizenship on a voter registration form, as described in A.R.S. § 16-121.01.
- 28 4. “Communication” means any transfer of information of any type, whether
written, oral, electronic, or otherwise, and includes transfers of information via email,

1 report, letter, text message, voicemail message, written memorandum, note, summary, and
2 other means. It includes communications entirely internal to the County Recorder’s office,
3 as well as communications that include or are with entities and individuals outside of the
4 County Recorder’s office.

5 5. “Document” is synonymous in meaning and scope to the term “document”
6 as used under Federal Rule of Civil Procedure 34 and “writings” and “recordings” as
7 defined in Federal Rules of Evidence 1001, and it includes, but is not limited to, records,
8 reports, lists, data, statistics, summaries, analyses, communications (as defined above), any
9 computer discs, tapes, printouts, emails, databases, and any handwritten, typewritten,
10 printed, electronically recorded, taped, graphic, machine-readable, or other material, of
11 whatever nature and in whatever form, including all non-identical copies and drafts thereof,
12 and all copies bearing any notation or mark not found on the original.

13 6. “DPOC” means documentary proof of citizenship as required for voter
14 registration under the Challenged Laws.

15 7. “DPOR” means documentary proof of location of residence as required for
16 voter registration under the Challenged Laws.

17 8. “Federal Form” means the federal mail voter registration application form
18 developed by the U.S. Election Assistance Commission pursuant to the National Voter
19 Registration Act.

20 9. “Including” means “including but not limited to.”

21 10. “Nonstandard Address” means, but is not limited to, residential addresses
22 that do not include a complete address number and/or a street name; addresses that appear
23 to be directions (such as “between mile markers x and y” or “the second house on the left”);
24 addresses that include a complete address number and street name or otherwise resemble a
25 standard address, but are not listed in nontribal governmental databases; and other
26 addresses that lack address coordinators or are not typically geocoded.

27 11. “Person” means not only natural persons, but also firms, partnerships,
28 associations, corporations, subsidiaries, divisions, departments, joint ventures,
proprietorships, syndicates, trust groups, and organizations; federal, state, or local

1 governments or government agencies, offices, bureaus, departments, or entities; other
2 legal, business, or government entities; and all subsidiaries, affiliates, divisions,
3 departments, branches, and other units thereof or any combination thereof.

4 12. “Registered Voter” means a person who has been added to the official list of
5 eligible voters for any election held in Arizona, including those voters whose registration
6 is limited to “Federal Only” ballots.

7 13. “Relating to,” “regarding,” or “concurring” and their cognates are to be
8 understood in their broadest sense and shall be construed to include pertaining to,
9 commenting on, memorializing, reflecting, recording, setting forth, describing, evidencing,
10 or constituting.

11 14. “State Form” means any voter registration form prescribed by the Secretary
12 of State, as described in A.R.S. § 16-152.

13 15. “You,” “your,” “Defendants” and “County Recorders” means Defendants
14 Defendants Apache County Recorder Larry Noble; Cochise County Recorder David W.
15 Stevens; Coconino County Recorder Patty Hansen; Gila County Recorder Sadie Jo
16 Bingham; Graham County Recorder Polly Merriman; Greenlee County Recorder Sharie
17 Milheiro; La Paz County Recorder Richard Garcia; Maricopa County Recorder Stephen
18 Richer; Mohave County Recorder Kristi Blair; Navajo County Recorder Michael Sample;
19 Pima County Recorder Gabriella Cázares-Kelly; Pinal County Recorder Dana Lewis; Santa
20 Cruz County Recorder Anita Moreno; Yavapai County Recorder Michelle M. Burchill;
21 and Yuma County Recorder Richard Colwell, in their official capacities, and includes any
22 predecessors and successors to your offices; any past and present employees, staff, agents,
23 assigns, and representatives of your offices; and any other persons or entities that, at any
24 time, acted on behalf or for the benefit of your offices.

25 16. “Voter Registration Applicant” means a person who has submitted an
26 application to register to vote in Arizona, whether or not the application is deemed
27 complete.

28 17. “Voter Registration Information” means all Documents derived from a
person’s voter registration application and any other information maintained regarding the

1 applicant, voter, or canceled voter, including all identifying information, voter registration
2 status and history, voting history, gender, sex, race and/or national origin information, and
3 all data maintained within the statewide voter file as well as any local database maintained
4 by Your office.

5 18. “Voter Registration History” includes the following Communications,
6 Documents, and information for each voter:

- 7 a. All Communications, records, or database entries (whether entered manually or
8 automatically generated) regarding the processing history, including the receipt,
9 acceptance, or denial of applications; review of supporting documents submitted
10 with the application; missing documents or records; additional documents
11 submitted; and reasons for acceptance, denial, or other actions;
- 12 b. Fields or other records that show what type of document or type of document
13 number was submitted with the application, specifically including a passport or birth
14 certificate, driver’s license number, as well as other items;
- 15 c. Data related to any correspondence that was sent to the applicant;
- 16 d. Data related to any correspondence that was received from the applicant; and
- 17 e. Fields that correspond to the Application, Status Reason, DL # Response Code
18 Report, SSN Response Code Report, or any electronic records showing or reflecting
19 the comparison of voter information with any database or system.

20 **INSTRUCTIONS**

21 You are to follow the instructions set forth below in responding to these requests.

22 1. You shall produce materials and serve responses and any objections on
23 Plaintiffs’ counsel within 30 days after service of these requests for production.

24 2. Pursuant to Federal Rule of Civil Procedure 34(b)(2)(B) and (C), if you
25 object to any part of a request, set forth the basis for your objection and respond to all parts
26 of the request to which you do not object. All objections must be noted with specificity.
27 Any ground not stated in a timely objection is waived.

1 3. If, in responding to these requests, you encounter any ambiguities when
2 construing a request or definition, set forth in your response what you find to be vague,
3 overbroad, or ambiguous and the construction you used in responding. Where you, in good
4 faith, doubt the meaning or intended scope of a request, and the sole objection would be to
5 its vagueness, overbreadth, or ambiguity, please contact Plaintiffs' counsel for clarification
6 in advance of asserting an objection.

7 4. With respect to any document withheld on a claim of privilege or work
8 product protection, provide a written privilege log identifying each document individually
9 and containing all information required by Federal Rule of Civil Procedure 26(b)(5),
10 including a description of the basis of the claimed privilege and all information necessary
11 for Plaintiffs to assess the claim of privilege.

12 5. In accordance with the Federal Rules of Civil Procedure, the scope of
13 discovery sought through these requests for production extends to all relevant and non-
14 privileged materials that might reasonably lead to the discovery of admissible evidence.
15 You should produce all documents available to you or subject to your access or control that
16 are responsive to the following requests for production. This includes documents in your
17 actual or constructive possession or control, as well as any non-privileged information in
18 the actual or constructive possession or control of your attorneys, investigators, experts,
19 agents, and any other persons acting on your behalf.

20 6. Documents are to be produced as they are kept in the ordinary course of
21 business. Accordingly, documents should be produced in their entirety, without
22 abbreviation, redaction, or expurgation; file folders with tabs or labels identifying
23 documents responsive to this request should be produced intact with the documents; and
24 documents attached to each other should not be separated.

25 7. Subject to any Electronically Stored Information ("ESI") order subsequently
26 entered in this case, all documents are to be produced in electronic form pursuant to these
27 instructions. All documents, including emails, should be produced in single page TIFF
28 format, showing comments and track changes where applicable, with text extract and
 database load files containing standard fielded information and metadata. TIFF images

1 shall be placed in an Images folder with any given subfolder not to exceed 5,000 images
2 per folder and accompanied by an .opt placed in a Data folder. Each page of a document
3 should be assigned a unique production number (aka Bates number) electronically
4 “burned” onto the image at a location that does not unreasonably conceal or interfere with
5 information on the document. The number should be consistent across the production,
6 contain no special characters, and be numerically sequential within a given document.
7 Attachments to documents should be assigned numbers that directly follow in sequential
8 order the Bates numbers on the documents to which they were attached. If a number or set
9 of numbers is skipped, the skipped number or set of numbers should be noted, for example
10 with a placeholder.

11 8. If there are no documents responsive to a particular request, so indicate in
12 your response. Similarly, to the extent that you do not have any means of recording the
13 information requested herein, please so indicate in your responses to the specific
14 production request.

15 9. If any otherwise responsive document was, but is no longer, in existence or
16 in your possession, custody, or control, identify the type of information contained in the
17 document, its current or last known custodian, the location/address of such document, and
18 the identity of all persons having knowledge or who had knowledge of the document, as
19 well as describe in full the circumstances surrounding its destruction, loss, or other
20 disposition from your possession or control.

21 10. These requests for production are continuing in nature, up to and during trial.
22 Materials sought by these requests for production that become available after you serve
23 your responses must be disclosed to counsel for Plaintiffs by supplementary response or
24 responses.

25 11. Pursuant to Federal Rule of Civil Procedure 26(e), you are under a duty to
26 promptly supplement or correct your responses to these requests for production if you learn
27 that an answer is in some material respect incomplete or incorrect. If you expect to obtain
28 further information or expect the accuracy of a response given to change between the time
responses are served and the time of trial, you should state this fact in each response.

1 Supplementary answers are to be served upon Plaintiffs' counsel as soon as practicable
2 after you receive this new information, but, in any event, no later than 14 days after its
3 receipt.

4 12. If you contend that it would be unreasonably burdensome to obtain and
5 provide all of the documents called for in response to any document request or any
6 subsection thereof, then in response to the appropriate document request: (a) produce all
7 such documents as are available to you without undertaking what you contend to be an
8 unreasonably burdensome effort; (b) describe with particularity the efforts made by you or
9 on your behalf to produce such documents, including identification of persons consulted,
10 description of files, records and documents reviewed, and identification of each person
11 who participated in the gathering of such documents, with specification of the amount of
12 time spent and the nature of work done by such person; and (c) state with particularity the
13 grounds upon which you contend the additional efforts to produce such documents would
14 be unreasonably burdensome.

15 13. The past-tense forms of verbs in these requests include their present-tense
16 forms, and vice versa.

17 14. The singular form of a noun or pronoun includes the plural form, and the
18 plural form indicates the singular.

19 15. The connectives "and" and "or" shall be construed either disjunctively or
20 conjunctively as necessary to bring within the scope of a document production topic all
21 responses that otherwise might be construed to be outside its scope.

22 16. A reference to an entity, agency, department, or board in this request shall be
23 construed to include its officers, directors, partners, members, managers, employees,
24 representatives, agents, consultants, or anyone acting on its behalf.

24 **REQUESTS FOR PRODUCTION**

25 **REQUEST FOR PRODUCTION NO. 1:**

26 All Documents and Communications from January 1, 2017, to the present relating
27 to the use of birthplace and Citizenship Checkbox on the State Form, including but not
28 limited to whether Voter Registration Applicants were required to provide birthplace or

1 complete the Citizenship Checkbox to be registered to vote, whether Voter Registration
2 Applicants actually did provide such information, how frequently Voter Registration
3 Applicants actually did provide a correct or incorrect birthplace, fail to provide a birthplace,
4 complete or fail to complete the Citizenship Checkbox, or make errors in completing the
5 Citizenship Checkbox, and whether Voter Registration Applicants were rejected for failing
6 to provide this information and/or the number of Voter Registration Applicants who cured
7 their applications for these errors or omissions pertaining to birthplace and/or the
8 Citizenship Checkbox.

9 **REQUEST FOR PRODUCTION NO. 2:**

10 Any and all Documents and Communications related to Your office's processes and
11 procedures for checking the citizenship or residence location of voters prior to the
12 enactment of the Challenged Laws, including but not limited to Documents and
13 Communications that describe or explain how Your office should determine citizenship
14 and residence location of a Registered Voter or Voter Registration Applicant.

15 **REQUEST FOR PRODUCTION NO. 3:**

16 Any and all Documents and Communications relating to—including but not limited
17 to a complete list of—Registered Voters whose registrations were cancelled, suspended,
18 removed, placed on Congressional-only or federal-only status, or restricted in any manner
19 for any reason and Voter Registration Applicants whose registration applications were
20 denied, challenged, placed on Congressional-only or federal-only status, or otherwise not
21 granted in any manner for any reason (including but not limited to missing, inaccurate,
22 non-matching, unverifiable, or otherwise defective DPOR or DPOC) from January 1, 2022
23 to the present. This request includes Documents and Communications that address the
24 reasons for the denial, challenge, placement on Congressional-only or federal-only status,
25 cancellation, suspension or removal, the final disposition of the denial, challenge,
26 placement on Congressional-only or federal-only status, cancellation, suspension or
27 removal, whether the Registered Voter or Voter Registration Applicant were notified of
28 the decision and given the opportunity to cure, and all Voter Registration Information and
Voter Registration History on both individual and aggregate levels.

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2 **REQUEST FOR PRODUCTION NO. 4:**

3 Any and all Documents and Communications pertaining to methods by which Voter
4 Registration Applicants or Registered Voters can appeal, contest, or cure a rejection of
5 their voter registration application, placement on a Congressional-only or federal-only
6 voter list, or a change in their voter registration status based on a finding by Your office of
7 non-citizenship or an absence of DPOC or failure to check the Citizenship Checkbox, non-
8 residency, or an absence of DPOR, or failure to provide birthplace on their registration
9 application.

10 **REQUEST FOR PRODUCTION NO. 5:**

11 Any and all Documents and Communications related to Nonstandard Addresses,
12 including all documents concerning how Your office has implemented voter registration
13 and list maintenance programs that account for voters with Nonstandard Addresses, any
14 assistance provided to a tribe or a tribal, rural, or other resident within its jurisdiction whose
15 residence has only a Nonstandard Address with voter registration, precinct assignment,
16 and/or assigning a standard residential street address to a home(s), and the ability of voters
17 to submit a description and/or graphic depiction of their location of residence, using either
18 the State Form or Federal Form.

19 **REQUEST FOR PRODUCTION NO. 6:**

20 All voter registration applications submitted since January 1, 2020, along with
21 related County and responsive voter correspondence and notes, for applicants who have
22 used the option in the State Form to “describe [the] location [of their residence] using
23 mileage, cross streets, parcel #, subdivision name/lot, or landmarks” and to “[d]raw a map
24 and/or provide latitude/longitude or geocode in Box 23 if located in a rural area without a
25 traditional street address” or the option in the Federal Form, to “show where [they] live”
26 using the map in Box C. This request includes applications and related documents in which
27 the applicant has been successfully registered and applications and related documents for
28 individuals who have been denied voter registration or removed from the voter rolls. This

1 request also includes related County Recorder correspondence and corresponding voter
2 responses regarding moving a voter to inactive status or cancelling a registration.

3 **REQUEST FOR PRODUCTION NO. 7:**

4 All Documents and Communications concerning actual or alleged misconduct,
5 fraud, a lack of voter confidence, election security, or other problems related to citizenship,
6 residence location, or proof of citizenship or residential addresses in voter registration,
7 including but not limited to bulletins, memoranda, training manuals, policies and
8 procedures, and complaints or reports received from citizens and the County's response or
9 other documents (including internal and external communications) evidencing the
10 investigation and resolution of each communication or complaint.

11 **REQUEST FOR PRODUCTION NO. 8:**

12 All Documents and Communications concerning potential voters who have sought
13 to vote early, or applied to vote by mail, who do not appear on the voter registration list,
14 including but not limited to all rejections of mail ballot applications due to lack of
15 registration and provisional ballots cast due to lack of registration and the outcome of those
16 provisional ballots.

17 **REQUEST FOR PRODUCTION NO. 9:**

18 All Documents and Communications concerning inequity (whether it be actual,
19 potential, alleged, or perceived inequity) in access to voter registration and voting and
20 provision of voting resources among racial, ethnic, national origin, or language minority
21 communities, including but not limited to external studies, voter or advocate
22 communications or complaints, or internal assessments related to such inequities.

23 **REQUEST FOR PRODUCTION NO. 10:**

24 All Documents referenced in, or relied upon in formulating, your responses to all
25 interrogatories in this matter.
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CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2023, I served the foregoing **CONSOLIDATED PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT COUNTY RECORDERS** on counsel of record for all parties by email.

Dated: May 30, 2023

/s/ Danielle Lang_____

Danielle Lang

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EXHIBIT 36

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Nebraska Secretary of State

https://www.sos-



(https://www.nebraska.gov/apps-sos-voter-registration/)

Your Progress 1 2 3 4 5 6 7 8 9

(four.html) | 1 (one.html) | 2 (two.html) | 3 (three.html) | 4 (four.html) | 5 (five.html) | 6 (six.html) | 7 (seven.html) | 8 (eight.html) | 9 (nine.html) (six.html)

DEMO Page 5 - SOS Online Voter Registration

Click on or hover over the icon below to view the demo tips

This website is a demonstration only, completing the following form will not process your request.

Additional Information - Optional

If you were previously registered to vote in Nebraska or any other state, please provide that information below.

Place of Birth

Previous Voter Registration Information

Previous Last Name/Maiden Name

Previous Address 1

Previous Address 2 (Optional)

Previous City

Previous County

Previous State

Previous Zip Code

Secretary of State - Elections Division

Email: sos.elect@nebraska.gov (mailto:sos.elect@nebraska.gov)

Phone: 1-888-727-0007 (tel:18887270007)

Nebraska.gov

Contact Us: Technical Support (<http://www.nebraska.gov/contact-us.html>)

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Online Voter Registration System

Vermont Secretary of State
COPELAND HANZAS

- 1
Eligibility
- 2
Voter Information
- 3
Address
- 4
Previous Info
- 5
Review & Affirm
- 6
Summary

Register to Vote - Voter Information

Fields marked with * are required fields

NEW VOTER REGISTRATION

* Select Town Of Residence:

PERSONAL INFORMATION

* First Name:

Middle / Maiden Name:

* Last Name:

Suffix:

* Date of Birth:

Place of Birth:

* Vermont Driver's License/Permit/ID#:

Email Address:

Telephone Number:

May we contact you about working as an Election Official at the polls? Yes No

BACK CONTINUE

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Tennessee
Secretary of State
Tre Hargett

What would you like to find?

Frequently Asked Questions for this Division

Voter Registration

How do I sign the online voter registration application?

I got married and changed my last name. Do I need to reregister under my new name?

I moved from a different state. Am I allowed to register to vote in Tennessee?

Is the deadline for online voter registration the same as the deadline for registering by other means?

What will I need to register to vote online?

You need an ID issued by the Tennessee Department of Safety and Homeland Security. We need your signature on file there to sign your application.

If you do not know your Department of Safety and Homeland Security ID number, do not worry. We will use the other information you enter to download your signature.

Where can I find the online voter registration application?

Where do homeless persons register to vote?

Will I be notified if my online voter registration has been received and is accepted?

Will online voter registration update my name or address with the Department of Safety and Homeland Security?

<< First

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Mission Statement

Our mission is to exceed the expectations of our customers, the taxpayers, by operating at the highest levels of accuracy, cost-effectiveness, and accountability in a customer-centered environment.



Secretary of State Tre Hargett

Tre Hargett was elected by the Tennessee General Assembly to serve as Tennessee's 37th secretary of state in 2009 and re-elected in 2013, 2017, and 2021. Secretary Hargett is the chief executive officer of the Department of State with oversight of more than 300 employees. He also serves on 16 boards and commissions, on two of which he is the presiding member. The services and oversight found in the Secretary of State's office reach every department and agency in state government.

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- Charitable Solicitation and Gaming
- Elections
- Human Resources
- Library & Archives
- Publications
- Records Management

LINKS

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- Bureau of Ethics and Campaign Finance
- Tennessee Code Unannotated
- State Comptroller
- State Treasurer
- Title VI Information
- Public Records Policy and Records Request Form



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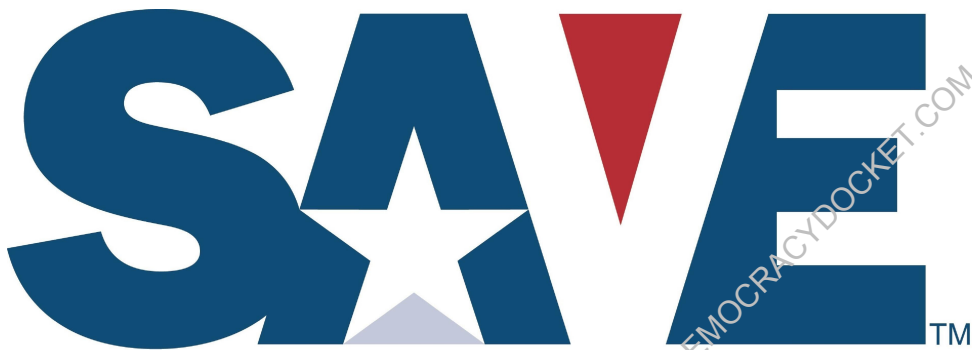
U.S. Citizenship
and Immigration
Services

[Home](#) > [SAVE](#) > About SAVE

About SAVE

SAVE Overview

SAVE's mission is to provide fast, secure and reliable immigration status information to assist benefit-granting agencies in maintaining their program integrity.



Check the [Agency Search Tool](#) to view the agencies registered with SAVE.

FAST | SECURE | RELIABLE

Electronic Immigration Status Verification

- Verifies an applicant's immigration or citizenship status within seconds
- Helps ensure that only applicants who are eligible for benefits receive them
- Incorporates privacy principles and security measures into users' processes and procedures
- Is easy to use and offers many online training tools and resources to assist users

Last Reviewed/Updated: 09/16/2020