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Attorney General Kristin K. Mayes

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mi Familia Vota, et al.,
Plaintiffs,
v.
Adrian Fontes, et al.,
Defendants.

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

**DEFENDANT ATTORNEY
GENERAL KRISTIN K. MAYES'S
ANSWER TO SECOND AMENDED
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF FILED
BY MI FAMILIA VOTA PLAINTIFFS**

THIS DOCUMENT RELATES TO:

No. CV-22-00509-PHX-SRB

Defendant Attorney General Kristin K. Mayes (the "Attorney General") answers the Second Amended Complaint (Doc. 65) filed on July 18, 2022 by Plaintiffs Mi Familia Vota and Voto Latino (collectively, "Plaintiffs") as follows:

NATURE OF THE CASE

1
2 1. The Attorney General admits that Plaintiffs generally describe the nature of
3 their claims in this action. The Attorney General denies the remaining allegations in
4 Paragraph 1.

5 2. This paragraph includes legal conclusions that require no response. If a
6 response is required, the Attorney General lacks sufficient information to admit or deny the
7 allegations in Paragraph 2 and therefore denies the same.

8 3. This paragraph includes legal conclusions that require no response. If a
9 response is required, the Attorney General lacks sufficient information to admit or deny the
10 allegations in Paragraph 3 and therefore denies the same.

11 4. The Attorney General lacks sufficient information to admit or deny the
12 allegations in Paragraph 4 and therefore denies the same.

13 5. The Attorney General alleges that the quoted statement speaks for itself and
14 further denies any allegations contained in this paragraph that are inconsistent with or
15 otherwise mischaracterize its language. The Attorney General lacks sufficient information
16 to admit or deny all remaining allegations in Paragraph 5 and therefore denies the same.

17 6. The Attorney General alleges that the quoted language speaks for itself and
18 further denies any allegations contained in this paragraph that are inconsistent with or
19 otherwise mischaracterize its language. The Attorney General lacks sufficient information
20 to admit or deny all remaining allegations in Paragraph 6 and therefore denies the same.

21 7. The Attorney General admits that Plaintiffs generally describe the nature of
22 their claims in this action. The Attorney General denies the remaining allegations in
23 Paragraph 7.

JURISDICTION AND VENUE

24
25 8. The Attorney General admits that Plaintiffs generally describe the nature of
26 their claims in this action. The Attorney General denies any remaining allegations in
27 Paragraph 8.
28

1 9. The Attorney General admits that Plaintiffs provided notice of the purported
 2 NVRA violations and that 52 U.S.C. § 20510(b) provides a private right of action. The
 3 Attorney General denies any remaining allegations in Paragraph 9.

4 10. Admit.

5 11. Admit.

6 12. Admit.

7 13. Admit.

8 14. Admit.

9 15. The Attorney General admits that the Court has authority to grant declaratory
 10 and/or injunctive relief, but she denies any remaining allegations in Paragraph 15.

11 **PARTIES**

12 16. The Attorney General lacks sufficient information to admit or deny the
 13 allegations in Paragraph 16 and therefore denies the same.

14 17. The Attorney General lacks sufficient information to admit or deny the
 15 allegations in Paragraph 17 and therefore denies the same.

16 18. The Attorney General lacks sufficient information to admit or deny the
 17 allegations in Paragraph 18 and therefore denies the same.

18 19. The Attorney General lacks sufficient information to admit or deny the
 19 allegations in Paragraph 19 and therefore denies the same.

20 20. The Attorney General lacks sufficient information to admit or deny the
 21 allegations in Paragraph 20 and therefore denies the same.

22 21. The Attorney General lacks sufficient information to admit or deny the
 23 allegations in Paragraph 21 and therefore denies the same.

24 22. Admit that the “Secretary of State is ‘responsible for coordination of State
 25 responsibilities under the national voter registration act of 1993,’” is “Arizona’s Chief
 26 Elections Officer,” and has related statutory authority. The Attorney General lacks
 27 sufficient information to admit or deny the remaining allegations in Paragraph 22 and
 28 therefore denies the same.

1 23. Admit the Arizona Attorney General is Arizona’s “chief legal officer” and is
2 “authorized to enforce Arizona’s election laws ‘any election for State office, members of
3 the legislature, justices of the supreme court, judges of the court of appeals or statewide
4 initiative or referendum . . . through civil and criminal actions,’” and has related statutory
5 authority. The Attorney General lacks sufficient information to admit or deny the remaining
6 allegations in Paragraph 23 and therefore denies the same.

7 24. This paragraph includes legal conclusions that require no response. If a
8 response is required, the Attorney General lacks sufficient information to admit or deny the
9 allegations in Paragraph 24 and therefore denies the same.

10 25. The Attorney General lacks sufficient information to admit or deny the
11 allegations in Paragraph 25 and therefore denies the same.

12 26. The Attorney General lacks sufficient information to admit or deny the
13 allegations in Paragraph 26 and therefore denies the same.

14 27. The Attorney General lacks sufficient information to admit or deny the
15 allegations in Paragraph 27 and therefore denies the same.

16 28. The Attorney General lacks sufficient information to admit or deny the
17 allegations in Paragraph 28 and therefore denies the same.

18 29. The Attorney General lacks sufficient information to admit or deny the
19 allegations in Paragraph 29 and therefore denies the same.

20 30. The Attorney General lacks sufficient information to admit or deny the
21 allegations in Paragraph 30 and therefore denies the same.

22 31. The Attorney General lacks sufficient information to admit or deny the
23 allegations in Paragraph 31 and therefore denies the same.

24 32. The Attorney General lacks sufficient information to admit or deny the
25 allegations in Paragraph 32 and therefore denies the same.

26 33. The Attorney General lacks sufficient information to admit or deny the
27 allegations in Paragraph 33 and therefore denies the same.

28

1 34. The Attorney General lacks sufficient information to admit or deny the
2 allegations in Paragraph 34 and therefore denies the same.

3 35. The Attorney General lacks sufficient information to admit or deny the
4 allegations in Paragraph 35 and therefore denies the same.

5 36. The Attorney General lacks sufficient information to admit or deny the
6 allegations in Paragraph 36 and therefore denies the same.

7 37. The Attorney General lacks sufficient information to admit or deny the
8 allegations in Paragraph 37 and therefore denies the same.

9 38. The Attorney General lacks sufficient information to admit or deny the
10 allegations in Paragraph 38 and therefore denies the same.

11 39. The Attorney General lacks sufficient information to admit or deny the
12 allegations in Paragraph 39 and therefore denies the same.

13 **STATEMENT OF FACTS**

14 **A. Arizona has a long and tortured history of changing voter registration systems.**

15 40. The Attorney General lacks sufficient information to admit or deny the
16 allegations in Paragraph 40 and therefore denies the same.

17 41. This paragraph includes legal conclusions that require no response. If a
18 response is required, the Attorney General lacks sufficient information to admit or deny the
19 allegations in Paragraph 41 and therefore denies the same.

20 42. This paragraph includes legal conclusions that require no response. If a
21 response is required, the Attorney General lacks sufficient information to admit or deny the
22 allegations in Paragraph 42 and therefore denies the same.

23 43. This paragraph includes legal conclusions that require no response. If a
24 response is required, the Attorney General lacks sufficient information to admit or deny the
25 allegations in Paragraph 43 and therefore denies the same.

26 44. The Attorney General lacks sufficient information to admit or deny the
27 allegations in Paragraph 44 and therefore denies the same.

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1 45. The Attorney General lacks sufficient information to admit or deny the
2 allegations in Paragraph 45 and therefore denies the same.

3 46. The Attorney General lacks sufficient information to admit or deny the
4 allegations in Paragraph 46 and therefore denies the same.

5 **B. Arizona voters rely on the state’s early voting system.**

6 47. This paragraph includes legal conclusions that require no response. If a
7 response is required, the Attorney General lacks sufficient information to admit or deny the
8 allegations in Paragraph 47 and therefore denies the same.

9 48. The Attorney General lacks sufficient information to admit or deny the
10 allegations in Paragraph 48 and therefore denies the same.

11 **C. The 2020 election in Arizona was secure and accurate.**

12 49. The Attorney General lacks sufficient information to admit or deny the
13 allegations in Paragraph 49 and therefore denies the same.

14 50. The Attorney General lacks sufficient information to admit or deny the
15 allegations in Paragraph 50 and therefore denies the same.

16 51. The Attorney General lacks sufficient information to admit or deny the
17 allegations in Paragraph 51 and therefore denies the same.

18 52. The Attorney General alleges that the quoted statement speaks for itself and
19 further denies any allegations contained in this paragraph that are inconsistent with or
20 otherwise mischaracterize its language. The Attorney General lacks sufficient information
21 to admit or deny all remaining allegations in Paragraph 52 and therefore denies the same.

22 53. The Attorney General lacks sufficient information to admit or deny the
23 allegations in Paragraph 53 and therefore denies the same.

24 54. The Attorney General lacks sufficient information to admit or deny the
25 allegations in Paragraph 54 and therefore denies the same.

26 55. The Attorney General lacks sufficient information to admit or deny the
27 allegations in Paragraph 55 and therefore denies the same.

28

1 56. The Attorney General lacks sufficient information to admit or deny the
2 allegations in Paragraph 56 and therefore denies the same.

3 57. This paragraph includes legal conclusions that require no response. If a
4 response is required, the Attorney General admits the quoted language is accurately
5 reproduced, but she lacks sufficient information to admit or deny any remaining allegations
6 in Paragraph 57 and therefore denies the same.

7 58. The Attorney General lacks sufficient information to admit or deny the
8 allegations in Paragraph 58 and therefore denies the same.

9 **D. H.B. 2492 is merely the latest in a string of baseless allegations of fraud that**
10 **have led to a host of pernicious efforts in Arizona to target early voting by mail.**

11 59. The Attorney General lacks sufficient information to admit or deny the
12 allegations in Paragraph 59 and therefore denies the same.

13 60. The Attorney General lacks sufficient information to admit or deny the
14 allegations in Paragraph 60 and therefore denies the same.

15 61. This paragraph includes legal conclusions that require no response, and the
16 Attorney General alleges that HB 2492 speaks for itself and further denies any allegations
17 contained in this paragraph that are inconsistent with or otherwise mischaracterize HB
18 2492's language. The Attorney General lacks sufficient information to admit or deny all
19 remaining allegations in Paragraph 61 and therefore denies the same.

20 **E. The burdens imposed by the Proof of Citizenship Restrictions on the right to**
21 **vote are substantial.**

22 62. The Attorney General lacks sufficient information to admit or deny the
23 allegations in Paragraph 62 and therefore denies the same.

24 63. The Attorney General lacks sufficient information to admit or deny the
25 allegations in Paragraph 63 and therefore denies the same.

26 64. The Attorney General lacks sufficient information to admit or deny the
27 allegations in Paragraph 64 and therefore denies the same.

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1 65. The Attorney General lacks sufficient information to admit or deny the
2 allegations in Paragraph 65 and therefore denies the same.

3 66. The Attorney General lacks sufficient information to admit or deny the
4 allegations in Paragraph 66 and therefore denies the same.

5 67. The Attorney General lacks sufficient information to admit or deny the
6 allegations in Paragraph 67 and therefore denies the same.

7 68. The Attorney General lacks sufficient information to admit or deny the
8 allegations in Paragraph 68 and therefore denies the same.

9 69. The Attorney General lacks sufficient information to admit or deny the
10 allegations in Paragraph 69 and therefore denies the same.

11 **F. The Proof of Citizenship Restrictions serves no justifiable Attorney General**
12 **interest.**

13 70. The Attorney General lacks sufficient information to admit or deny the
14 allegations in Paragraph 70 and therefore denies the same.

15 71. The Attorney General lacks sufficient information to admit or deny the
16 allegations in Paragraph 71 and therefore denies the same.

17 72. The Attorney General alleges that the quoted statement speaks for itself and
18 further denies any allegations contained in this paragraph that are inconsistent with or
19 otherwise mischaracterize its language. The Attorney General lacks sufficient information
20 to admit or deny all remaining allegations in Paragraph 72 and therefore denies the same.

21 73. The Attorney General alleges that the quoted statement speaks for itself and
22 further denies any allegations contained in this paragraph that are inconsistent with or
23 otherwise mischaracterize its language. The Attorney General lacks sufficient information
24 to admit or deny all remaining allegations in Paragraph 73 and therefore denies the same.

25 74. The Attorney General lacks sufficient information to admit or deny the
26 allegations in Paragraph 74 and therefore denies the same.

27 75. The Attorney General lacks sufficient information to admit or deny the
28 allegations in Paragraph 75 and therefore denies the same.

CLAIMS FOR RELIEF

COUNT I

**Unjustifiable Burden on the Right to Vote
U.S. Const. Amend. I, XIV, 42 U.S.C. § 1983
(As to all Defendants)**

1
2
3
4
5 76. The Attorney General incorporates by reference all preceding paragraphs as
6 if fully set forth herein.

7 77. This paragraph includes legal conclusions that require no response. If a
8 response is required, the Attorney General lacks sufficient information to admit or deny the
9 allegations in Paragraph 77 and therefore denies the same.

10 78. This paragraph includes legal conclusions that require no response. If a
11 response is required, the Attorney General admits the quoted language is accurately
12 reproduced, but she lacks sufficient information to admit or deny any remaining allegations
13 in Paragraph 78 and therefore denies the same.

14 79. Deny.

15 80. Deny.

COUNT II

**Denial of Procedural Due Process
U.S. Const. Amend. XIV, 42 U.S.C. § 1983
(As to all Defendants)**

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17
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19 81. The Attorney General incorporates by reference all preceding paragraphs as
20 if fully set forth herein.

21 82. This paragraph includes legal conclusions that require no response. If a
22 response is required, the Attorney General admits the quoted language is accurately
23 reproduced, but she lacks sufficient information to admit or deny the remaining allegations
24 in Paragraph 82 and therefore denies the same.

25 83. This paragraph includes legal conclusions that require no response. If a
26 response is required, the Attorney General admits the quoted language is accurately
27 reproduced, but she lacks sufficient information to admit or deny the remaining allegations
28 in Paragraph 83 and therefore denies the same.

1 84. Deny.

2 85. Deny.

3 **COUNT III**

4 **Disparate Treatment in Violation of the Right to Equal Protection**
5 **U.S. Const. Amend. XIV, 42 U.S.C. § 1983**
6 **(As to all Defendants)**

7 86. The Attorney General incorporates by reference all preceding paragraphs as
8 if fully set forth herein.

9 87. This paragraph includes legal conclusions that require no response. If a
10 response is required, the Attorney General admits the quoted language is accurately
11 reproduced, but she lacks sufficient information to admit or deny any remaining allegations
12 in Paragraph 87 and therefore denies the same.

13 88. This paragraph includes legal conclusions that require no response. If a
14 response is required, the Attorney General admits the quoted language is accurately
15 reproduced, but she lacks sufficient information to admit or deny any remaining allegations
16 in Paragraph 88 and therefore denies the same.

17 89. Deny.

18 90. Deny.

19 91. Deny.

20 92. Deny.

21 **COUNT IV**

22 **National Voter Registration Act of 1993**
23 **52 U.S.C. §§ 20505, 20507, 20508, 20510**
24 **(As to Defendants Hobbs and County Recorders)**

25 93. This claim is not stated against the Attorney General, so Paragraph 93 requires
26 no response.

27 94. This claim is not stated against the Attorney General, so Paragraph 94 requires
28 no response.

95. This claim is not stated against the Attorney General, so Paragraph 95 requires
no response.

1 96. This claim is not stated against the Attorney General, so Paragraph 96 requires
2 no response.

3 97. This claim is not stated against the Attorney General, so Paragraph 97 requires
4 no response.

5 98. This claim is not stated against the Attorney General, so Paragraph 98 requires
6 no response.

7 99. This claim is not stated against the Attorney General, so Paragraph 99 requires
8 no response.

9 COUNT V

10 **Materiality Provision of the Civil Rights Act of 1964**
11 **52 U.S.C. § 10101(a)(2)(B)**
 (As to all Defendants)

12 100. The Attorney General incorporates by reference all preceding paragraphs as
13 if fully set forth herein.

14 101. This paragraph includes legal conclusions that require no response. If a
15 response is required, the Attorney General admits the quoted language is accurately
16 reproduced, but she lacks sufficient information to admit or deny any remaining allegations
17 in Paragraph 101 and therefore denies the same.

18 102. Deny.

19 103. Deny.

20 104. Deny.

21 105. Deny.

22 106. Deny.

23 **AFFIRMATIVE DEFENSES**

- 24 1. The Court lacks jurisdiction for lack of standing.
 - 25 2. Plaintiffs' claims fail because they are not ripe, and thus, not yet fit for judicial
26 review.
 - 27 3. Plaintiffs fail to state a claim upon which relief can be granted.
- 28

1 4. Plaintiffs fail to meet the requirements for declaratory or preliminary or
2 permanent injunctive relief.

3 WHEREFORE, having fully answered Plaintiffs' Second Amended Complaint, the
4 Attorney General respectfully requests that the Court dismiss the remaining counts of
5 Plaintiffs' Second Amended Complaint with prejudice, deny Plaintiffs' request for
6 injunctive relief, deny Plaintiffs' request for declaratory relief, order that Plaintiffs take
7 nothing, and award the Attorney General any such other and further relief as the Court
8 deems appropriate.

9 **DEMAND FOR JURY TRIAL**

10 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Attorney General
11 hereby demands a trial by jury in this action of all issues so triable.

12 DATED this 17th day of March, 2023.

13 **KRISTIN K. MAYES**
14 **ATTORNEY GENERAL**

15
16 By: /s/ Hayleigh S. Crawford
17 Hayleigh S. Crawford (No. 032326)
18 Joshua M. Whitaker (No. 032724)
19 Robert J. Makar (No. 033579)

20 *Attorneys for Defendant*
21 *Attorney General Kristin K. Mayes*

22 **FENNEMORE CRAIG, P.C.**

23 By: /s/ Emily Ward
24 Douglas C. Northup (No. 013987)
25 Timothy J. Berg (No. 004170)
26 Emily Ward (No. 029963)

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