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 5 Recorder Sadie Bingham

6 **IN THE UNITED STATES DISTRICT COURT**
 7
 8 **FOR THE DISTRICT OF ARIZONA**

9 Arizona Asian American Native
 Hawaiian And Pacific Islander for Equity
 10 Coalition;
 11
 Plaintiff,
 12
 vs.
 13
 Katie Hobbs, in her official capacity as
 14 Arizona Secretary of State, et al.,
 15
 Defendants.

NO. CV-22-01381-PHX-SRB

**DEFENDANT GILA COUNTY
 RECORDER’S ANSWER TO THE
 COMPLAINT FOR DECLARATORY
 AND INJUNCTIVE RELIEF**

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 18 The Federal Rules of Civil Procedure 8 and 12 require that Defendant Gila
 19 County Recorder Sadie Jo Bingham timely serve a responsive pleading, and when the
 20 pleading is an Answer, to respond to allegations made. As set forth in their Answer
 21 below, Defendant Gila County Recorder Sadie Jo Bingham (hereinafter “Defendant
 22 Bingham”), in her official capacity, affirmatively states that she is a nominal party to this
 23 litigation and her inclusion in this action is nominal only. Defendant Bingham takes no
 24 position regarding the constitutionality of Senate Bill 2492 and Senate Bill 2243.
 25
 26 Defendant Bingham will comply with the Federal Rules of Civil Procedure and orders of
 27 the Court entered relative to this case.
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1 Defendant Bingham, in her official capacity as the Gila County Recorder,
2 hereby answers Plaintiff's Complaint as follows:

3 **INTRODUCTION**

- 4 1. To the extent that Defendant Bingham is knowledgeable of Proposition 200
5 requiring voter identification and the legal decisions resolving challenges to the
6 Proposition and the State of Arizona's implementation of a bifurcated voter
7 registration system, she does not dispute the factual history in Paragraphs 1-4 of
8 Plaintiff's Complaint.
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10 2. Defendant Bingham Answers Paragraph 5 and admits that the State of Arizona
11 adopted House Bill 2492 during its most recent legislative session, but states that
12 she is without knowledge or information sufficient to form a belief as to the truth
13 of any remaining allegations in Paragraphs 1-5.
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15 3. Defendant Bingham answers Paragraph 6 of Plaintiff's Complaint by stating that
16 she is without knowledge or information sufficient to form a belief as to the truth
17 of the allegations contained therein or that the allegations contained therein are
18 legal conclusions to which no response is required.
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20 4. Defendant Bingham answers Paragraphs 7 and 8 of Plaintiff's Complaint by stating
21 that she is without knowledge or information sufficient to form a belief as to the
22 truth of the allegations contained therein.
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24 5. Defendant Bingham answers Paragraph 9 of Plaintiff's Complaint by stating that
25 she is without knowledge or information sufficient to form a belief as to the truth
26 of the allegations contained therein or that the allegations contained therein are
27 legal conclusions to which no response is required.
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6. Defendant Bingham answers Paragraph 10 and admits that the State of Arizona adopted House Bill 2492 during its most recent legislative session, and that Governor Ducey vetoed HB 2617, but states that she is without knowledge or information sufficient to form a belief as to the truth of any remaining allegations in Paragraph 10.
7. Defendant Bingham answers Paragraph 11 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein or that the allegations contained therein are legal conclusions to which no response is required.
8. Defendant Bingham answers Paragraph 12 of Plaintiff’s Complaint and admits that HB 2243 requires a County Recorder to cancel a registration when they “confirm that a person registered is not a United States Citizen” within 35 days’ notice and that the County Recorder must also notify the County Attorney and Attorney General for possible investigation if the person does not provide “satisfactory evidence of United States Citizenship,” but states that the remaining allegations contained in Paragraph 12 are legal conclusions to which no response is required.
9. Defendant Bingham answers Paragraph 13 of Plaintiff’s Complaint by stating that the allegations contained therein are moot as the parties have stipulated to and this Court has issued an order prohibiting the Defendants from implementing these provisions of HB 2243 before January 1, 2023.
10. Defendant Bingham answers Paragraph 14 of Plaintiff’s Complaint and admits that HB 2243 requires a County Recorder to place a voter in inactive status if that person has been issued a driver license or the equivalent in another state and does

1 not return a form confirming that they are a resident of Arizona, but states that she
2 is without knowledge or information sufficient to form a belief as to the truth of
3 any remaining allegations contained therein.

4 11. Defendant Bingham answers Paragraph 15 of Plaintiff's Complaint by stating that
5 she is without knowledge or information sufficient to form a belief as to the truth
6 of the allegations contained therein.

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8 12. Defendant Bingham answers Paragraph 16 of Plaintiff's Complaint and admits that
9 HB 2617 provided for a 90-day response time for voters appearing to not be
10 Arizona residents and voters believed to not be U.S. Citizens, and that Governor
11 Ducey vetoed HB 2617, but states that she is without knowledge or information
12 sufficient to form a belief as to the truth of any remaining allegations contained
13 therein.

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15 13. Defendant Bingham answers Paragraph 17 of Plaintiff's Complaint and admits that
16 HB 2243 requires voters believed to not be US Citizens to show proof of
17 citizenships, requires cancellation of their registration if they do not show such
18 proofs, and requires notification of the County Attorney and Attorney General for
19 possible investigation, but states that she is without knowledge or information
20 sufficient to form a belief as to the truth of any remaining allegations contained
21 therein.

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24 14. Defendant Bingham answers Paragraph 18 of Plaintiff's Complaint by stating that
25 she is without knowledge or information sufficient to form a belief as to the truth
26 of the allegations contained therein.
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1 15. Defendant Bingham answers Paragraphs 19–20 of Plaintiff’s Complaint by stating
2 that the allegations contained therein are moot as the parties have stipulated to and
3 this Court has issued an order prohibiting the Defendants from implementing these
4 provisions of HB 2243 before January 1, 2023.

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6 16. Defendant Bingham answers Paragraph 21 of Plaintiff’s Complaint by stating that
7 the allegations contained therein are legal conclusions to which no response is
8 required.

14 **JURISDICTION AND VENUE**

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16 17. Defendant Bingham Answers Paragraphs 22–29 and admits that Plaintiffs have filed
17 suit pursuant to 42 U.S.C. § 1983, but otherwise reiterates that she is a nominal
18 party to the matter and is without knowledge or information sufficient to form
19 beliefs as to whether Plaintiffs are entitled to any relief under the statute.

20 **PARTIES**

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22 18. Defendant Bingham answers Paragraphs 30–33 of Plaintiff’s Complaint by stating
23 that she is without knowledge or information sufficient to form a belief as to the
24 truths of the allegations contained therein.

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26 19. Defendant Bingham answers Paragraphs 34–36 and admits the allegations
27 contained therein.
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FACTUAL ALLEGATIONS

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20. Defendant Bingham Answers Paragraph 37 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and otherwise are legal conclusions to which no response is required.

21. Defendant Bingham answers Paragraphs 38–39 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truths of the allegations contained therein.

22. Defendant Bingham answers Paragraphs 40–47 of Plaintiff’s Complaint and admits the details of the history of Proposition 200 as described therein.

23. Defendant Bingham answers Paragraphs 48–56 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

24. Defendant Bingham answers Paragraph 57 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

25. Defendant Bingham answers Paragraph 58 of Plaintiff’s Complaint and admits that Governor Ducey vetoed HB 2617, but further states that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

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26. Defendant Bingham answers Paragraph 59 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

27. Defendant Bingham answers Paragraph 60 of Plaintiff’s Complaint and admits that the response periods provided in HB 2617 and HB 2243 differ as described therein, but further states that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

28. Defendant Bingham answers Paragraph 61 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

29. Defendant Bingham answers Paragraph 62 of Plaintiff’s Complaint and admits that Section 4 of HB 2492 amends A.R.S. § 16-121.01(A) as described therein.

30. Defendant Bingham answers Paragraph 63 of Plaintiff’s Complaint by stating that the allegations therein are legal conclusions to which no response is required.

31. Defendant Bingham answers Paragraphs 64–71 and admits that Arizona law and HB 2492 include the language as described therein.

32. Defendant Bingham answers Paragraph 72 and admits the allegations contained therein.

33. Defendant Bingham answers Paragraph 73 of Plaintiff’s Complaint by stating that the allegations therein are legal conclusions to which no response is required.

34. Defendant Bingham answers Paragraphs 74–76 and admits that Arizona law and HB 2492 include the language as described therein.

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35. Defendant Bingham answers Paragraphs 77–78 of Plaintiff’s Complaint by stating that the allegations therein are legal conclusions to which no response is required.

36. Defendant Bingham answers Paragraph 79 and admits that HB 2492 includes the language as described therein.

37. Defendant Bingham answers Paragraph 80 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

38. Defendant Bingham answers Paragraph 81 and admits that HB 2492 adds A.R.S. 16-127 to State law which states that a registered voter who has not provided satisfactory evidence of citizenship is neither eligible to vote in presidential elections nor receive an early ballot. Defendant Bingham further admits that the provision does not include a requirement that the registered voter be notified of such ineligibility.

39. Defendant Bingham answers Paragraph 82 and admits that HB 2492 includes the language as described therein.

40. Defendant Bingham answers Paragraph 83 of Plaintiff’s Complaint by stating that the allegations therein are legal conclusions to which no response is required.

41. Defendant Bingham answers Paragraphs 84–85 and admits that HB 2243 includes the language as described therein.

42. Defendant Bingham answers Paragraph 86 of Plaintiff’s Complaint by stating that the allegations therein are legal conclusions to which no response is required.

43. Defendant Bingham answers Paragraph 87 and admits that HB 2492 requires Arizonans to provide their place of birth to complete their voter registration form,

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but states that she is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained therein.

44. Defendant Bingham answers Paragraphs 88–89 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein or that the allegations contained therein are legal conclusions to which no response is required.

45. Defendant Bingham answers Paragraphs 90–99 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein or that the allegations contained therein are legal conclusions to which no response is required.

46. Defendant Bingham answers Paragraph 100 and realleges and incorporates by reference all prior paragraphs of her answer, as if fully set forth herein.

47. Defendant Bingham answers Paragraphs 101-112 of Plaintiff’s Complaint by stating that she is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Undue Burden on the Right to Vote in Violation of the First and Fourteenth Amendments to the U.S. Constitution)

48. Defendant Bingham answers Paragraph 113 and realleges and incorporates by reference all prior paragraphs of her Answer, as if fully set forth herein.

1 49. Defendant Bingham answers Paragraphs 114–118 of Plaintiff’s Complaint saying
2 the allegations contained therein are legal conclusions to which no response is
3 required.

4 **SECOND CLAIM FOR RELIEF**
5 **(Arbitrary and Disparate Treatment of Voter Registration Applicants Using the**
6 **State Form in Violation of the Equal Protection Clause of the Fourteenth**
7 **Amendment to the U.S. Constitution.)**

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9 50. Defendant Bingham answers Paragraph 119 and realleges and incorporates by
10 reference all prior paragraphs of her Answer, as if fully set forth herein.

11 51. Defendant Bingham answers Paragraphs 120–124 of Plaintiff’s Complaint saying
12 the allegations contained therein are legal conclusions to which no response is
13 required.
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15 **THIRD CLAIM FOR RELIEF**
16 **(National Origin Discrimination in Violation of the Equal Protection Clause of the**
17 **Fourteenth Amendment to the U.S. Constitution)**

18 52. Defendant Bingham answers Paragraph 125 and realleges and incorporates by
19 reference all prior paragraphs of her Answer, as if fully set forth herein.
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21 53. Defendant Bingham answers Paragraphs 126–133 of Plaintiff’s Complaint saying
22 the allegations contained therein are legal conclusions to which no response is
23 required.
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FOURTH CLAIM FOR RELIEF

(Violation of Procedural Due Process Rights under the Fourteenth Amendment to the U.S. Constitution)

54. Defendant Bingham answers Paragraph 134 and realleges and incorporates by reference all prior paragraphs of her Answer, as if fully set forth herein.

55. Defendant Bingham answers Paragraphs 135–142 of Plaintiff’s Complaint saying the allegations contained therein are legal conclusions to which no response is required.

FIFTH CLAIM FOR RELIEF

(Race Discrimination in Violation of the Fourteenth and Fifteenth Amendments to the U.S. Constitution)

56. Defendant Bingham answers Paragraph 143 and realleges and incorporates by reference all prior paragraphs of her Answer, as if fully set forth herein.

57. Defendant Bingham Answers Paragraphs 144–151 of Plaintiff’s Complaint saying the allegations contained therein are legal conclusions to which no response is required.

SIXTH CLAIM FOR RELIEF

(Denial of Right to Vote Based on Immaterial Omission on Voter Registration Form in Violation of the Civil Rights Act, 52 U.S.C. § 10101)

58. Defendant Bingham answers Paragraph 152 and realleges and incorporates by reference all prior paragraphs of her Answer, as if fully set forth herein.

59. Defendant Bingham answers Paragraphs 153–155 of Plaintiff’s Complaint saying the allegations contained therein are legal conclusions to which no response is required.

SEVENTH CLAIM FOR RELIEF

(Violation of the National Voter Registration Act of 1993)

60. Defendant Bingham answers Paragraph 156 and realleges and incorporates by reference all prior paragraphs of her Answer, as if fully set forth herein.

61. Defendant Bingham answers Paragraphs 157–174 of Plaintiff’s Complaint saying the allegations contained therein are legal conclusions to which no response is required.

PRAYER FOR RELIEF

WHEREFORE, having fully responded to Plaintiff’s Complaint, Defendant Bingham respectfully requests:

1. That this Court designate Defendant Bingham as a nominal party and to deny Plaintiff any award of costs or attorneys’ fees as against Defendant Bingham;
2. Defendant Bingham reiterates that she takes no position regarding the merits of the Complaint and will abide by whatever relief the Court may grant and whatever order or judgment the Court may enter.

RESPECTFULLY SUBMITTED this 11th day of October, 2022.

GILA COUNTY ATTORNEY
Bradley D. Beauchamp

BY: /s/Jefferson R. Dalton
Jefferson R. Dalton
*Attorney for the Defendant Gila
County Recorder Sadie Jo Bingham*

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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2022, I electronically transmitted the foregoing document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants on record.

/s/Jefferson R. Dalton

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