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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Arizona Asian American Native
Hawaiian And Pacific Islander For
Equity Coalition,

Plaintiff,

vs.

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

Defendants.

Case No: 2:22-cv-01381-SRB

**STATE'S MOTION FOR LEAVE
REGARDING MOTION TO DISMISS**

MOTION FOR LEAVE

Defendant Mark Brnovich (the “State”) respectfully moves this Court leave (1) to treat and file the lodged Consolidated Motion to Dismiss that was filed earlier today in *Mi Familia Vota v. Hobbs*, 2:22-cv-00509-SRB (D. Ariz.) (the “Consolidated Matter”) as a Motion to Dismiss in the instant matter and (2) from the State from the obligations of LRCiv 12.1(c) to the extent they have not already been met.

Consolidated MTD. Given that this AAANHPI, like all challenges in the Consolidated Matter, challenge HB 2492 under the National Voter Registration Act (“NVRA”), the interests of judicial economy strongly favor briefing addressing all issues in a consolidated manner rather than in piecemeal approach. A consolidated motion to dismiss is warranted for all of the reasons explained in the State’s motion to consolidate. (Doc. 59).

Local Rule 12.1. Pursuant to LRCiv 12.1, counsel for the State contacted counsel for Plaintiffs in the instant matter and the Consolidated Matter with the bases for the proposed Motion to Dismiss on Tuesday, September 13. Counsel for each of the Plaintiffs in the Consolidated matter responded the next day, declining to amend their respective complaints without protest or any apparent difficulty.

Alone among Plaintiffs, the AAANHPI Plaintiffs responded only yesterday, Thursday September 15, and did so by demanding additional detail of the State’s intended arguments. After noting that the detail provided was sufficient for all plaintiffs in the Consolidated Matter to reach a decision, the State provided a 232-word overview of its planned motion and indicated that it “will assume that you do not intend to amend your complaint unless you tell us otherwise by 5pm PDT [Friday, the filing deadline in the Consolidated Matter].” At the time of filing, counsel have not responded.

Local Rule 12.1 requires a certification that “the movant notified the opposing party of the issues asserted in the motion and the parties were unable to agree that the pleading was curable in any part by a permissible amendment offered by the pleading party.” The State has provided the requisite notice. Counsel for AAANHPI’s failure to respond to the State’s notice by 5pm of the filing date at least arguably establishes that “the parties were

1 unable to agree that the pleading was curable in any part by a permissible amendment
 2 offered by the pleading party.” But to the extent that Local Rule 12.1 requires explicit
 3 agreement, rather than failure to respond by a deadline that would otherwise preclude
 4 compliance with a filing deadline set by this Court, the State respectfully seeks leave from
 5 such a requirement.

6 The State’s actions here have satisfied the core purposes of Local Rule 12.1 here—
 7 and indeed were sufficient such that *all* other Private Plaintiffs and the United States had
 8 no apparent difficulty responding to the State explicitly that they did not intend to amend
 9 their respective complaints. The State’s efforts to secure the agreement from counsel for
 10 AAANHPI, after providing an additional summary of argument, should have been
 11 sufficient too, and should suffice here.

12 In any event, any potential prejudice to AAANHPI is lacking here. With the benefit
 13 of the State’s motion to dismiss, it can decide in the next week or two whether amendment
 14 to its complaint is warranted. Should it decide to do so, the State will consent to such an
 15 amendment.

16 RESPECTFULLY SUBMITTED this 16th day of September, 2022.

17 **MARK BRNOVICH**
 18 **ATTORNEY GENERAL**

19 By: s/ Drew C. Ensign

20 Joseph A. Kanefield (No. 15838)

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of September, 2022, I caused the foregoing document to be electronically transmitted to the Clerk's Office using the CM/ECF System for Filing, which will send notice of such filing to all registered CM/ECF users.

s/ Drew C. Ensign

*Attorneys for Defendant Mark Brnovich,
Arizona Attorney General*

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