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

17 Promise Arizona, et al.

18 Plaintiffs,

19 vs.

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

22 Defendants.

Case No: 2:22-cv-01602-SRB

**STATE'S REPLY TO RESPONSE IN
SUPPORT OF ITS MOTION TO
CONSOLIDATE**

REPLY IN SUPPORT OF CONSOLIDATION

1
2 Promise Arizona’s opposition to consolidation rests largely on mischaracterizations
3 of the other related challenges and conclusory, untenable contentions. It fails to provide
4 any defensible basis for why consolidation should be denied.

5 Mischaracterizations first. Promise Arizona would have been well-served by
6 running a simple “Control-F” search of the other complaints here *before* filing its
7 opposition. Such a search would have rapidly revealed the falsity of many of their
8 contentions. Three flatly false characterizations stand out.

9 *First*, one of Promise Arizona’s central premises in opposing consolidation (at 4-5)
10 is that its case is “unique ... [because it] challeng[es] H.B. 2243 based on race, national
11 origin, and alienage.” That contention cannot withstand scrutiny. For example, Poder
12 Latinx has specifically asserted that HB 2243 “violates the Fourteenth and Fifteenth
13 Amendments’ prohibitions on the discriminatory treatment of voters on the basis of *race*
14 *and/or national origin*.” Doc. 106 at 7 (¶9) (emphasis added); *accord id.* at 52 (¶116)
15 (contending that HB 2243 will result in “discriminatory treatment of voters on the basis of
16 their *race and national origin*” (emphasis added)). Similarly, LUCHA et al. have
17 specifically contended that HB 2243 “discriminate[s] between Arizona citizens *based on*
18 *their national origin*.” Doc. 67 at 63 (¶330) emphasis added).

19 Promise Arizona similarly ignores the suit of Arizona Asian American Native
20 Hawaiian And Pacific Islander For Equity Coalition (“AAANHPI”), for which there is a
21 pending consolidation motion. AAANHPI’s Complaint likewise alleges that HB 2243
22 “discriminate[s] on the basis of *race and national origin*.” AAANHPI Doc. 1 at 28 (¶88)
23 (emphasis added).¹

24
25 ¹ To the extent that Promise Arizona is asserting discrimination on the basis of “alienage”
26 beyond what is already captured by their assertions of national origin discrimination (*i.e.*,
27 based simply on being a non-citizen), such a claim would be frivolous. The right to vote is
28 one of the core rights possessed by citizens—and indeed the right to vote is typically the
quintessential feature that defines citizenship itself. No court has ever held that restricting
the franchise to citizens violates the U.S. Constitution. Because HB 2243 only regulates
voting, it is not susceptible to an alienage discrimination challenge.

1 *Second*, Promise Arizona describes (at 4) the other complaints as not “challeng[ing]
2 the remaining provisions of H.B. 2243 involving, among other things, the Arizona driver
3 license database, or the Social Security Administration database.” A simple skim of the
4 other complaints reveals the manifest error in that statement too. For example, LUCHA
5 explicitly contends that the “driver license database maintained by the Arizona Department
6 of Transportation” and the “Social Security Administration Database” are “*faulty and*
7 *contain notoriously stale data*,” and that relying upon those databases will result in “error-
8 prone database checks [that] *will lead to inaccuracies and result in election officials*
9 *erroneously rejecting numerous voter registration applications* from eligible Arizona
10 voters.” Doc. 67 at 19-20 (¶¶111-16) (emphasis added).

11 Similarly, Poder Latinx specifically addresses “driver license database maintained
12 by Arizona DOT” and “the Social Security Administration database,” and alleges that they
13 “contain outdated and inaccurate information.” Doc. 106 at 23 (¶40), 28 (¶51). And
14 AAANHPI alleges that those same databases contain “contain outdated and unreliable
15 data.” *AAANHPI* Doc. 1 at 27 (¶¶85-86). Other complaints thus plainly do involve
16 challenges regarding the driver license and Social Security Administration databases.

17 *Third*, Promise Arizona asserts that “[u]nlike the parties in the Consolidated Cases,
18 Promise Arizona (“PAZ”) is a membership organization.” Opp. at 5 (emphasis added). Not
19 so. Not a single Plaintiff here is an actual voter; all save the United States are
20 organizations—almost all of them “membership organizations.” Indeed, some even use
21 that *exact* “membership organization” phraseology that Promise Arizona contends makes
22 it unique: LUCHA, for example, explicitly describes itself as a “nonpartisan, nonprofit
23 *membership organization*.” Doc. 67 at 40 (¶210) (emphasis added). So too does its co-
24 Plaintiff, LULAC, which pronounces itself a “nonpartisan, nonprofit *membership*
25 *organization*.” *Id.* at 43 (¶225) (emphasis added).

26 Other Plaintiffs are similarly clear that they have members and that those members
27 are allegedly affected by the challenged statutes. Both Mi Familia Vota and Voto Latino
28 repeatedly assert that the challenged statutes will harm their “members and constituents.”

1 Doc. 65 at 20-21, 23-24, 26 (¶¶79, 84, 91, 98, 106). Likewise, the Arizona Democratic
2 Party describes itself as having “over 1.3 million registered members.” *DNC Doc. 1* at 4
3 (¶15).

4 Respectfully, the State does not understand how Promise Arizona could have read
5 the other complaints in the Consolidated Cases and concluded that it alone was the sole
6 “membership organization” plaintiff here. It plainly is not. And its opposition to
7 consolidation is riddled with many such readily disprovable assertions.

8 Promise Arizona also advances conclusory assertions that similarly cannot
9 withstand scrutiny. It, for example, contends (at 6) that “the risk of inconsistent
10 adjudications of common factual and legal issues are minimal.” But it never explains why
11 that is so. Certainly, if Promise Arizona were to prevail in its race-/national origin-based
12 challenges to HB 2243, there would be an obvious risk of “inconsistent adjudications”
13 unless the Plaintiffs in the Consolidated Cases and *AAANHPI* (if not consolidated) did not
14 also prevail on their challenges to HB 2243. By conducting duplicative proceedings
15 regarding the same essential facts and legal questions, the “risk of inconsistent
16 adjudications” is manifest, not minimal.

17 Finally, Promise Arizona asserts (at 5-6)—without citation or explanation—that
18 “there is little or no judicial convenience gained from consolidation.” But the potential
19 efficiency gains here are both self-evident and already reflected by the fact that this Court
20 has previously consolidated five actions together (and is separately considering
21 consolidation of a sixth). It would not have done so if there were no such gains to be had.
22 And to the extent that Promise Arizona’s no-efficiencies-to-be-had contention is premised
23 on its foregoing mischaracterizations, it similarly fails with them.

24 CONCLUSION

25 For the foregoing reasons, the State’s motion to consolidate should be granted.
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RESPECTFULLY SUBMITTED this 14th day of October, 2022.

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of October, 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
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