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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Arizona Alliance for Retired Americans,

Plaintiffs,

v.

Clean Elections USA; Melody Jennings,

Defendants.

No. CV-22-01823-PHX-MTL

NOTICE OF VOLUNTARY DISMISSAL

Plaintiff Arizona Alliance of Retired Americans (the “Arizona Alliance”) hereby submits this notice of voluntary dismissal of its action without prejudice

1 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Because Defendants have
2 not yet served either an answer or a motion for summary judgment, pursuant to the
3 terms of Rule 41(a)(1)(A)(i), dismissal of the Arizona Alliance’s action is effectuated
4 with the filing of this notice and requires no further order from the Court.

5 This notice does not operate to dismiss the separate action brought by the
6 League of Women Voters of Arizona (the “League”), who are separately represented
7 and whose action was consolidated with this one by the Court on October 31. The
8 League separately filed a motion for preliminary injunction in its case (originally
9 Case No. CV-22-08196-PCT-SMB), after the Arizona Alliance filed a motion for a
10 preliminary injunction under this original case number (with which the League’s case
11 was then consolidated). When the Court denied the Arizona Alliance’s motion for a
12 preliminary injunction, the Arizona Alliance appealed that decision to the Ninth
13 Circuit. Pls. Notice of Appeal at 2, ECF No. 34. The Court then heard and granted
14 the League’s separate motion for a temporary restraining order on November 1

15 The Arizona Alliance’s preliminary injunction motion was entirely focused on
16 enjoining Defendants’ activities related to the 2022 election. As a result, the Arizona
17 Alliance advised the Ninth Circuit, after the culmination of that election, that its
18 appeal from the Court’s denial of that motion is moot. The sole remaining issue in
19 that appeal is vacatur, an issue that remains live despite this dismissal. *See U.S.*
20 *Bancorp Mortg. Co. v. Bonner Mall P’ship*, 513 U.S. 18, 20–22 (1994) (holding that
21 appellate courts’ power to vacate judgments that become moot before appellate
22 review does not depend upon the existence of a continuing case or controversy).

23 The Arizona Alliance notes this background in light of the Court’s January 10
24 Order, ECF No. 73, because the Arizona Alliance’s interlocutory appeal became
25 moot while Plaintiffs’ underlying claims did not. The Arizona Alliance’s
26 interlocutory appeal concerns only this Court’s denial of the Arizona Alliance’s
27 preliminary injunction motion, which was limited to enjoining Defendants’ activities
28 related to the 2022 election. It is because of that narrow focus of that motion that the

1 appeal from the Court's denial of that motion has become moot. The Arizona
2 Alliance's underlying Complaint, however, also sought actual and nominal damages,
3 and a permanent injunction that would apply in future elections. As a result, the
4 Arizona Alliance's claims were not mooted by the election, as they remained live
5 beyond the 2022 election.

6 Nevertheless, the Arizona Alliance has decided to voluntarily dismiss its
7 remaining claims, and it hereby does so. Because, under the terms of Rule
8 41(a)(1)(A)(i), this notice takes immediate effect to dismiss the Arizona Alliance's
9 action, the Arizona Alliance does not intend to participate with the remaining parties
10 in the drafting of the joint status report due January 24 or appear at the status
11 conference on January 27.

12 The Arizona Alliance thanks the Court for its swift attention to the important
13 issues in this case in advance of the 2022 general election.

14 DATED January 18, 2023.

15
16 By *s/ David R. Fox*

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