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15 *Attorneys for Plaintiffs*

16 **IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA**

17 **IN AND FOR THE COUNTY OF YAVAPAI**

18 ARIZONA FREE ENTERPRISE CLUB,)
19 an Arizona nonprofit corporation, and)
20 MARY KAY RUWETTE, individually,)
21)
22 Plaintiffs,)

23 v.)

24 ADRIAN FONTES, in his official capacity)
25 as the Secretary of State of Arizona,)
26)
27 Defendant,)

28 ---and---

29 ARIZONA ALLIANCE FOR RETIRED)
30 AMERICANS and VOTO LATINO,)
31)
32)
33 Intervenor/Defendants.)

No. S1300CV2023-00872

**PLAINTIFFS' RESPONSE TO
SECRETARY OF STATE'S
STATEMENT OF FACTS
IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

(assigned to the Honorable John Napper)

Plaintiffs hereby respond to Defendant's Statement of Facts and submit the following Controverting Statement of Facts, in opposition to Defendant's Motion for Summary Judgment, and pursuant to Rule 56(c)(3) of the Arizona Rules of Civil Procedure. This response is supported by a declaration from David Stevens and Jeanne Kentch.

- 1 1. This is not disputed.
- 2 2. This is not disputed.
- 3 3. This is not disputed.
- 4 4. This is not disputed.
- 5 5. This is not disputed.
- 6 6. This is not disputed.
- 7 7. This is not disputed.
- 8 8. This is not disputed.
- 9 9. This is not disputed.
- 10 10. This is disputed. The EPM speaks for itself and this is not an accurate quotation
11 of the EPM.
- 12 11. This is not disputed.
- 13 12. This is not disputed.
- 14 13. This is not disputed.
- 15 14. This is not disputed.
- 16 15. This is disputed. In addition, objection is made on the grounds of relevance in
17 that even if this paragraph is accurate factually it cannot excuse illegal actions, and objection is
18 made that proper foundation has not been laid.
- 19 16. This is disputed. In addition, objection is made on the grounds of relevance—
20 even if money is saved this is not a justification for illegal activity.
- 21 17. This is not disputed.
- 22 18. This is disputed. In addition, objection is made on the grounds of relevance—even
23 if these described benefits do exist they are not a justification for illegal activity.
- 24 19. This is disputed. In addition, objection is made on the grounds of relevance in that
25 even if this paragraph is accurate factually it cannot excuse illegal actions, and objection is made
26 that proper foundation has not been laid.

1 32. Mohave County spans over 13,000 square miles and its voters are able to rely on
2 staffed drop boxes and the mail to cast their votes. Kentch Decl. at ¶ 7.

3 33. Unstaffed drop boxes are not necessary to provide voters the opportunity to vote.
4 Kentch Decl. at ¶ 8.

5 34. If Mohave County employed unstaffed drop boxes, there would be an increased
6 risk of tampering while in transit during long drives and pit stops to reach distance parts of the
7 county. Kentch Decl. at ¶ 7.

8
9 **RESPECTFULLY SUBMITTED** December 1, 2023.

10
11 TIMOTHY A. LA SOTA, PLC

12 By: /s/ Timothy A. La Sota
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26 *Attorney for Plaintiffs*

27 * *pro hac vice to be filed*
28 † *pro hac vice pending*

23 I
24 hereby certify that on December 1, 2023, I caused the foregoing document to was filed
25 with the Yavapai County Superior Court Clerk via the Turbo Court E-file system.

26 I hereby certify that on December 1, 2023, I caused the following parties or persons to be
27 served via email:

28 Kara Karlson

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Karen J. Hartman-Tellez
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12 /s/ Timothy A. La Sota
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5 **SUPERIOR COURT OF ARIZONA**
6 **YAVAPAI COUNTY**

7 ARIZONA FREE ENTERPRISE CLUB, an Arizona
8 nonprofit corporation, and MARY KAY RUWETTE,
individually,

9 Plaintiffs,

10 v.

11 ADRIAN FONTES, in his official capacity as the
12 Secretary of State of Arizona,

13 Defendant,

14 ---and---

15 ARIZONA ALLIANCE FOR RETIRED AMERICANS
and VOTO LATIONO,

16
17 Intervenor/Defendants.

No. S1300CV2023-
00872 _____

RULE 80(c)
DECLARATION OF
JEANNE KENTCH

(assigned to the
Honorable John Napper)

18 **RULE 80(c) DECLARATION OF JEANNE KENTCH**

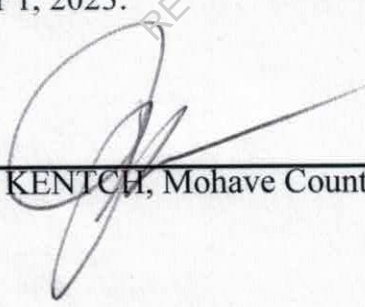
19 I, JEANNE KENTCH, hereby depose and say:

- 20 1. I am Mohave County GOP Chair. I am also the elected Mohave County
21 Assessor, but I do not submit this declaration in that role. I have been a resident
22 of Mohave County for thirty-two years. If called upon to testify, I could and
would testify consistently with this declaration.
- 23 2. One of my major duties as the Mohave County GOP Chair is to try to have as
many Republicans cast their ballots as possible, be it by early ballot or in person.
- 24 3. As part of my role as County GOP Chair, I must be, and am, knowledgeable
25 about the various ways that citizens can cast their ballots in Mohave County. I

1 am often asked by various members of my party, and even nonmembers, about
2 different ways to cast ballots, and I inform them consistent with this declaration
3 in order to help ensure that their ballots are counted.

- 4 4. In Mohave County, we have four secured locations where ballots may be
5 deposited. Three of these are early voting locations: the Mohave County Library
6 in Lake Havasu City, the Mohave County Library in Bullhead City, the Kathryn
7 Heidenreich Adult Center in Kingman. The fourth location is the recorder's
8 office itself, located in Kingman.
- 9 5. We have no unstaffed drop boxes in Mohave County. Mohave County receives
10 most of its early ballots via delivery by the United States Postal Service. Voters
11 also deposit their votes at early voting locations, which have certain operating
12 hours during the voting season and only accept ballot deposits during those hours.
- 13 6. To my knowledge Mohave County has never had any drop boxes.
- 14 7. I would have significant concerns about allowing the use of an unstaffed drop box
15 because of the difficulties in ensuring the security and purity of voting while
16 permitting the use of unstaffed drop boxes, and because ballot retrievers would be
17 left alone and vulnerable with hundreds of ballots during the long drives and pit
18 stops required to reach distant populated areas of our 13,311 square mile county.
- 19 8. It is very important that our election officials make voting as seamless as
20 possible. There should not be unnecessary burdens to vote. It is my job as the
21 GOP Chair to help people cast their ballot if needed, therefore safe, efficient and
22 secured voting is extremely important to our party and county. I do not believe
23 that a County has to provide unstaffed drop boxes at insecure locations in order to
24 provide voters the necessary opportunities to vote.
- 25 9. Further affiant sayeth not.

17 I declare under penalty of perjury that the foregoing is true and correct. Executed on
18 December 1, 2023.

19 
20 _____
21 JEANNE KENTCH, Mohave County GOP Chair
22
23
24
25

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6 **YAVAPAI COUNTY**

7 ARIZONA FREE ENTERPRISE CLUB, an Arizona
8 nonprofit corporation, and MARY KAY RUWETTE,
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13 Defendant,

14 ---and---

15 ARIZONA ALLIANCE FOR RETIRED AMERICANS
and VOTO LATIONO,

16
17 Intervenor/Defendants.

No. S1300CV2023-
00872

RULE 80(c)
DECLARATION OF
DAVID STEVENS

(assigned to the
Honorable John Napper)

18 **RULE 80(c) DECLARATION OF DAVID STEVENS**

19 I, DAVID W. STEVENS, hereby depose and say:

- 20 1. I am the Cochise County Recorder. If called upon to testify, I could and would
21 testify consistently with this declaration.
- 22 2. I was elected as Cochise County Recorder in 2016 and was re-elected in 2020.
23 Previously I was elected to the Arizona House of Representatives in 2008, 2010,
2012, and 2014.
- 24 3. I am a certified election officer, as I completed the Secretary of State's election
25 officer training and certification program as required by A.R.S. Section 16-407
for this professional certification.

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4. In summary, my duties involve maintaining the voter rolls, maintaining the permanent early voting list, mailing out all of the early ballots, providing locations and staff for early voting, emergency voting, and UOCAVA (Uniformed and Overseas Citizens Absentee Voting). Signature Verification for candidate petitions and Initiatives, Referendums, and Recalls. Verifying the signatures on the affidavit envelope from any signature that is on file. Once the ballots are received and verified at my office, we transport them to the Elections department for tallying.
 5. We have 5 drop boxes located throughout Cochise County. One box is located at the Records' office. We also have a drop box inside the county service centers in Sierra Vista, Benson, Wilcox, and Douglas. Because they are inside government facilities, they are accessible between 8-5, Monday through Friday. They cannot be accessed outside of those hours because the buildings are closed. All of these boxes have motion detection surveillance cameras. All of these boxes are in the view of county staff. None of these Drop Boxes are available on Election Day.
 6. We have no unstaffed drop boxes in Cochise County.
 7. There is no need for unstaffed drop boxes in my county because voters may send me their ballot at any time during an election period by placing their ballot in the mail. For instance, if a voter arrived at the Sierra Vista County Service Center when the center is closed, he or she could simply place a ballot in the USPS collection drop box conveniently located at the entrance of the service center parking lot, which is never closed.
 8. Cochise County ballots must be received by my office no later than 7:00 p.m. on Election Day in order for them to be counted.
 9. Even with no unstaffed drop boxes in our county, Cochise County had a 61.1% voter turnout rate in the 2022 general election. According to the 2022 General Election Results published by the Secretary of State,¹ I understand that this was higher than ten other counties, and lower than just four counties. I also understand that our turnout rate was very close to Maricopa County's turnout rate (reported as 64.17%), even though we do not have any large cities in Cochise County.
 10. Further affiant sayeth not.

¹ https://azsos.gov/sites/default/files/2022Dec05_General_Election_Canvass_Web.pdf

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on
2 December 1, 2023.

3 

4 DAVID STEVENS, Cochise County Recorder

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