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6 Attorney for Yuma County Defendants

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

9  
10 Strong Communities Foundation of Arizona  
Incorporated, et al.,

11 Plaintiffs,

12 v.

13 Stephen Richer; et al.,

14 Defendants.

Case No. CV-24-02030-PHX-KML

**YUMA COUNTY DEFENDANTS’  
ANSWER TO FIRST AMENDED  
COMPLAINT**

15 Defendants Yuma County Recorder Richard Colwell (the “Recorder”) and Yuma County  
16 (“Yuma County Defendants”) answer Plaintiffs’ First Amended Complaint (“Amended  
17 Complaint”) as follows:

18 **YUMA COUNTY DEFENDANTS’ JOINDER AND GENERAL DENIAL**

19 The Yuma County Defendants join the Maricopa County Defendants’ Answer to  
20 Plaintiffs’ First Amended Complaint filed on September 17, 2024, unless otherwise noted herein.  
21 Every allegation in Plaintiffs’ Amended Complaint that is not specifically admitted in this  
Answer is denied.

**INTRODUCTION**

1  
2 1. The Yuma County Defendants join the Maricopa County Defendants in their  
3 responses to the allegations in Paragraphs 1-7 of the Amended Complaint.

4 2. The Yuma County Defendants deny all allegations made in Paragraph 8 as to the  
5 Yuma County Defendants, and further affirmatively state that the Yuma County Recorder  
6 complies with all legal requirements concerning voter registration list maintenance. The Yuma  
7 County Defendants lack knowledge or information sufficient to form a belief about the truth of  
8 the allegations concerning the other Defendants.

9 3. Answering Paragraph 9, Yuma County Defendants deny that they have failed to  
10 follow the law. The Yuma County Defendants lack knowledge or information sufficient to  
11 form a belief about the truth of the allegations concerning the voters or the other Defendants.  
12 The Yuma County Defendants join Maricopa County Defendants in asserting that to the extent  
13 there has been any loss of confidence in the integrity of the election system, it is far more likely  
14 the result of the repeated, false allegations against election officers and their administration of  
15 elections.

16 4. The Yuma County Defendants join the Maricopa County Defendants in their  
17 responses to Paragraphs 10 and 11.

18 5. Answering Paragraph 12, the Yuma County Defendants lack knowledge or  
19 information sufficient to form a belief about the truth of the allegations concerning the  
20 Plaintiffs' motive in filing this lawsuit. The Yuma County Defendants further deny that the  
21

1 Yuma County Recorder has failed to comply with the list maintenance procedures required by  
2 law.

3 **PARTIES**

4 6. The Yuma County Defendants join the Maricopa County Defendants in their  
5 responses to Paragraphs 13-16.

6 7. Answering Paragraph 17, the Yuma County Defendants lack knowledge or  
7 information sufficient to form a belief about the truth of the allegations concerning  
8 EZAZ.org's members. The Yuma County Defendants deny that the Yuma County Recorder has  
9 failed to comply with required voter list maintenance practices.

10 8. The Yuma County Defendants join the Maricopa County Defendants in their  
11 responses to Paragraphs 18-50.

12 **JURISDICTION AND VENUE**

13 9. The Yuma County Defendants join the Maricopa County Defendants in their  
14 response to Paragraph 51.

15 10. Answering Paragraph 52, the Yuma County Defendants admit that Plaintiff Strong  
16 Communities Foundation sent a letter to the Yuma County Recorder asserting the Yuma  
17 County Recorder had failed to comply with her purported mandatory obligation to submit a  
18 request to DHS for citizenship confirmation. Yuma County further admits that said letter alleges  
19 a violation that occurred within 120 days before an election for a federal office. The Yuma County  
20 Defendants lack knowledge or information sufficient to form a belief about the truth of the  
21 allegations concerning the other Defendants. The Yuma County Defendants deny all other

1 allegations made in Paragraph 52. Additionally, the Yuma County Defendants affirmatively  
2 state as follows: (1) County recorders are not “chief election officials” within the meaning of  
3 52 U.S.C. § 20510(b); (2) Plaintiffs sent their “notice” on July 16, 2024, which is within 120  
4 days of the next federal election; (3) Section 20510(b) requires that a plaintiff may only file a  
5 lawsuit alleging a violation of the NVRA occurring within 120 days before the date of a federal  
6 election after providing written notice of the violation “to the chief election official of the state  
7 involved” (the “NVRA Notice Letter”) and providing that official twenty days to correct the  
8 alleged violation, 52 U.S.C. § 20510(b)(2); (4) the Arizona Secretary of State is the “chief state  
9 election officer” under NVRA, A.R.S. § 16-142(A); and (5) Plaintiffs failed to provide the  
10 NVRA Notice Letter to the Secretary of State prior to filing their lawsuit as required by 52  
11 U.S.C. § 20510(b). Thus, Plaintiffs failed to comply with the law’s requirements for bringing a  
12 lawsuit alleging violations of the NVRA.

13 11. The Yuma County Defendants join the Maricopa County Defendants in their  
14 responses to Paragraphs 53-56.

15 **GENERAL ALLEGATIONS**

16 12. The Yuma County Defendants join the Maricopa County Defendants in their  
17 response to Paragraph 57.

18 ***I. Arizona’s Federal-Only Voters***

19 13. The Yuma County Defendants join the Maricopa County Defendants in their  
20 responses to Paragraphs 58-64.

1           14.     Answering Paragraph 65, the Yuma County Defendants deny that the number of  
2 Federal-Only Voters increases in Yuma County each month. In fact, between April 1, 2024,  
3 and October 7, 2024, the number of Federal-Only Voters in Yuma County decreased from 47 to  
4 43. The Yuma County Defendants lack knowledge or information sufficient to form a belief  
5 about the truth of the allegations concerning the other Defendants.

6           15.     The Yuma County Defendants lack knowledge or information sufficient to form  
7 a belief about the truth of the allegations in Paragraphs 66 and 67.

8     ***II. Voter List Maintenance Requirements***

9           16.     The Yuma County Defendants join the Maricopa County Defendants in their  
10 responses to Paragraphs 68-71.

11           17.     Answering Paragraph 72, the Yuma County Defendants deny that the Yuma  
12 County Recorder has failed to perform required list maintenance. The Yuma County Defendants  
13 lack knowledge or information sufficient to form a belief about the truth of the allegations  
14 concerning the other Defendants.

15           18.     The Yuma County Defendants join the Maricopa County Defendants in their  
16 response to Paragraph 73.

17           19.     Answering Paragraph 74, the Yuma County Defendants deny that the Yuma  
18 County Recorder has failed to perform required list maintenance. The Yuma County Defendants  
19 lack knowledge or information sufficient to form a belief about the truth of the allegations  
20 concerning the other Defendants.

1           20.     The Yuma County Defendants join the Maricopa County Defendants in their  
2 responses to Paragraphs 75-81.

3 ***III. Foreign Citizens do register to vote.***

4           21.     The Yuma County Defendants join the Maricopa County Defendants in their  
5 responses to Paragraphs 82-88.

6 ***IV. SAVE, SSA, and EVVE are Insufficient to Definitively Verify Citizenship***

7           22.     The Yuma County Defendants join the Maricopa County Defendants in their  
8 responses to Paragraphs 89-105.<sup>1</sup>

9 ***V. SSA and EVVE***

10          23.     The Yuma County Defendants join the Maricopa Defendants in their responses  
11 to Paragraphs 106-116.

12 ***VI. Federal Law Entitles County Recorders to Submit Citizenship Inquiries to DHS***

13          24.     The Yuma County Defendants join the Maricopa County Defendants in their  
14 responses to Paragraphs 117-127.

15          25.     The Yuma County Defendants lack knowledge and information sufficient to form  
16 a belief about the truth of the allegations in Paragraph 128.

17          26.     The Yuma County Defendants join the Maricopa County Defendants in their  
18 responses to Paragraphs 129-134.

19 ***VII. County Recorder Obligations to Provide to the Attorney General a List of Federal-Only***  
20 ***Voters***

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21 <sup>1</sup> Maricopa County inadvertently referred to paragraph 89 when answering Plaintiffs' allegations in Paragraph 93 of the First Amended Complaint. Yuma County wishes to correct this for their own Answer.

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27. The Yuma County Defendants join the Maricopa County Defendants in their responses to Paragraphs 135-137.

28. Answering Paragraph 138, the Yuma County Defendants deny the allegations as to the Yuma County Recorder. The Yuma County Defendants further affirmatively state that the Yuma County Recorder follows and complies with all applicable law, and any allegations to the contrary stated and implied are denied. The Yuma County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations concerning the other Defendants.

29. Answering Paragraph 139, the Yuma County Defendants admit that they have not sent a list of Federal-Only Voters to the Attorney General. The Yuma County Defendants further affirmatively state that the Recorder complies with A.R.S. § 16-143(A), and that there is no ongoing requirement that the county recorders “provide” information about Federal-Only Voters to the Attorney General. The Yuma County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations concerning the other Defendants.

30. Answering Paragraph 140, the Yuma County Defendants admit that the Yuma County Recorder did not send the Attorney General applications of all of Yuma County’s Federal-Only Voters on or before October 31, 2022, as contemplated by A.R.S. § 16-143(A), because there was no requirement that she do so, nor did she have any authority to do so. The Yuma County Defendants further affirmatively state that, as explained in the answer to Paragraph 135, the requirement that the Recorder send voters’ applications to the Attorney

1 General by October 31, 2022, did not become effective until after that date. Consequently,  
2 the Recorder had no legal obligation or authority to send voter registration applications to the  
3 Attorney General “on or before October 31, 2022.”

4 ***VIII. Pre-Litigation Efforts to Request Compliance as to Maricopa County***

5 31. The Yuma County Defendants lack knowledge or information sufficient to form  
6 a belief about the truth of the allegations in Paragraphs 141-148.

7 32. The Yuma County Defendants join the Maricopa County Defendants in their  
8 responses to Paragraphs 149-150.

9 33. The Yuma County Defendants lack knowledge and information sufficient to form  
10 a belief about the truth of the allegations in Paragraphs 151-155.

11 ***IX. Pre-Litigation Efforts to Request Compliance as the Other Counties***

12 34. Answering Paragraph 156, the Yuma County Defendants admit that the Yuma  
13 County Recorder received a letter from Strong Communities Foundation on or about July 16,  
14 2024, and that the letter purported to “remind” the Recorder of list maintenance  
15 responsibilities. The Yuma County Defendants further admit that the letter erroneously claimed  
16 that a citizenship inquiry made to DHS pursuant to 8 U.S.C. §§ 1373 and 1644 would allow  
17 the Recorder to fulfill those obligations. The Yuma County Defendants lack knowledge or  
18 information sufficient to form a belief about the truth of the allegations concerning the other  
19 Defendants.

20 35. The Yuma County Defendants join the Maricopa County Defendants in their  
21 responses to Paragraphs 157-158.



1 36. The Yuma County Defendants lack knowledge or information sufficient to form  
2 a belief about the truth of the allegations in Paragraph 159.

3 37. The Yuma County Defendants join the Maricopa County Defendants in their  
4 responses to Paragraphs 160-162.

5 38. Answering Paragraph 163, the Yuma County Defendants admit that they did not  
6 respond to the Strong Communities Foundation letter, but they lack knowledge or information  
7 sufficient to form a belief about the truth of the allegations concerning the other Defendants.

8 **COUNT I**

9 **Failure to Use “All Available Resources” for Voter List Maintenance of Federal-Only**  
10 **Voters (Special Action, Declaratory, and Injunctive Relief) A.R.S. §§ 16-121.01(D), 12-**  
11 **1801, 12-1832, 12-2021, Ariz. R. Civ. P. 65, RPSA 3, and 28 U.S.C. § 1651**

12 39. Answering Paragraph 164, the Yuma County Defendants incorporate their  
13 responses to the incorporated allegations.

14 40. The Yuma County Defendants join the Maricopa County Defendants in their  
15 response to Paragraph 165.

16 41. The Yuma County Defendants deny the allegations in Paragraph 166.

17 42. Answering Paragraph 167, the Yuma County Defendants admit that the Yuma  
18 County Recorder has not submitted any citizenship inquiries to DHS pursuant to 8 U.S.C. §§  
19 1373 or 1644. The Yuma County Defendants lack knowledge or information sufficient to form  
20 a belief about the truth of the remaining allegations.

21 43. The Yuma County Defendants deny the allegations in Paragraph 168 as it relates  
to the Yuma County Recorder and affirmatively state that the Recorder fully complies with

1 A.R.S. § 16-121.01(D). The Yuma County Defendants lack knowledge or information  
2 sufficient to form a belief about the truth of the allegations concerning the other Defendants.

3 44. The Yuma County Defendants deny the allegations in Paragraph 169 as they relate  
4 to the Yuma County Recorder and affirmatively state that the Recorder fully complies with  
5 A.R.S. § 16-121.01(D). The Yuma County Defendants lack knowledge or information  
6 sufficient to form a belief about the truth of the allegations concerning the other Defendants.

7  
8 **COUNT II**

8 **Failure to Consult Accessible Databases for Voter List Maintenance of Federal-Only**  
9 **Voters (Special Action, Declaratory, and Injunctive Relief) A.R.S. §§ 16-121.01(D)(5), 12-**  
9 **1801, 12- 1831, 12-1832, 12-2021, Ariz. R. Civ. O. 65, RPSA 3, and 28 U.S.C. § 1651**

10 45. Answering Paragraph 170, the Yuma County Defendants incorporate their  
11 responses to the incorporated allegations.

12 46. The Yuma County Defendants join the Maricopa County Defendants in their  
13 responses to Paragraphs 171-172.

14 47. Answering Paragraph 173, the Yuma County Defendants admit that the Yuma  
15 County Recorder has not submitted any citizenship inquiries to DHS pursuant to 8 U.S.C. §§  
16 1373 or 1644—because (1) the Recorder already uses DHS’s citizenship-inquiry process with  
17 SAVE pursuant to A.R.S. § 16-121.01(D), for those registrants whose specific immigration  
18 enumerators are accessible and known, and (2) there is no other DHS citizenship inquiry  
19 available unless one has the specific immigration enumerators for those whose citizenship is  
20 being investigated. Thus, all those for whom inquiries to DHS could be made have already been  
21 made, and there is no additional inquiry that can be made. The Yuma County Defendants lack

1 knowledge or information sufficient to form a belief about the truth of the allegations concerning  
2 the other Defendants.

3 48. The Yuma County Defendants deny the allegations in Paragraph 174 as they relate  
4 to the Yuma County Recorder and affirmatively state that the Recorder complies with A.R.S.  
5 §16- 121.01(D). The Yuma County Defendants lack knowledge or information sufficient to  
6 form a belief about the truth of the allegations concerning the other Defendants.

7 49. The Yuma County Defendants deny the allegations in Paragraph 175 as they relate  
8 to the Yuma County Recorder and affirmatively state that the Recorder complies with A.R.S.  
9 §16- 121.01(D). The Yuma County Defendants lack knowledge or information sufficient to  
10 form a belief about the truth of the allegations concerning the other Defendants.

11 50. The Yuma County Defendants deny the allegations in Paragraph 176 as they relate  
12 to the Yuma County Recorder and affirmatively state that the Recorder complies with A.R.S.  
13 §16- 121.01(D). The Yuma County Defendants lack knowledge or information sufficient to  
14 form a belief about the truth of the allegations concerning the other Defendants.

### 15 **COUNT III**

#### 16 **Failure to Conduct Regular Voter List Maintenance of Federal-Only Voters Using** 17 **Accessible Databases (Special Action, Declaratory, and Injunctive Relief) A.R.S. §§ 16-** 18 **165(K), 12-1801, 12-1831, 12-1832, 12-2021, Ariz. R. Civ. O. 65, RPSA 3, and 28 U.S.C.** 19 **§ 1651**

20 51. Answering Paragraph 177, the Yuma County Defendants incorporate their  
21 responses to the incorporated allegations.

52. The Yuma County Defendants join the Maricopa County Defendants in their  
responses to Paragraphs 178-182.

1 53. Answering Paragraph 183, the Yuma County Defendants admit that the Yuma  
2 County Recorder has not submitted any citizenship inquiries to DHS pursuant to 8 U.S.C. §§  
3 1373 or 1644. The Yuma County Defendants lack knowledge or information sufficient to form  
4 a belief about the truth of the allegations concerning the other Defendants.

5 54. The Yuma County Defendants deny the allegations in Paragraph 184.

6 55. Answering Paragraph 185, the Yuma County Defendants deny that the Yuma  
7 County Recorder has violated any mandatory duties under A.R.S. § 16-165(K). Yuma  
8 County Defendants lack knowledge or information sufficient to form a belief about the truth of  
9 the allegations concerning the other Defendants.

10 56. Answering Paragraph 186, the Yuma County Defendants deny allegations as they  
11 relate to the Yuma County Recorder. The Yuma County Defendants lack knowledge or  
12 information sufficient to form a belief about the truth of the allegations concerning the other  
13 Defendants.

14 **COUNT IV**

15 **Failure to Send Information About Federal-Only Voters to the Attorney General**  
16 **(Special Action, Declaratory, and Injunctive Relief) A.R.S. §§ 16-143, 12-1801, 12-1831,**  
17 **12-1832, 12-2021, Ariz. R. Civ. O. 65, RPSA 3, and 28 U.S.C. § 1651**

18 57. Answering Paragraph 187, the Yuma County Defendants incorporate their  
19 responses to the incorporated allegations.

20 58. The Yuma County Defendants join the Maricopa County Defendants in their  
21 response to Paragraph 188.





1           6.       Plaintiffs’ proposed interpretation of Arizona and federal-law citizenship-inquiry  
2 requirements, which Plaintiffs seek to impose on Defendants, would lead to futile and absurd  
3 results, and courts do not construe statutes to produce such results. *Church of Scientology of*  
4 *California v. U.S. Dep’t of Just.*, 612 F.2d 417, 422 (9<sup>th</sup> Cir. 1979) (quoting *United States v.*  
5 *Am. Trucking Ass’n*, 310 U.S. 534, 543-44 (1940).

6           7.       Yuma County is not a proper Defendant to this action and must be dismissed.

7           8.       The Yuma County Defendants reserve the right to assert additional affirmative  
8 defenses as additional facts are discovered.

9                           **YUMA COUNTY DEFENDANTS’ PRAYER FOR RELIEF**

10          A.       The Yuma County Defendants pray for relief as follows.

11          B.       That the Court dismiss Plaintiffs’ First Amended Complaint;

12          C.       That judgment be entered in favor of the Yuma County Defendants and against  
13 Plaintiffs’ Amended Complaint;

14          D.       That the Yuma County Defendants be awarded their reasonable attorneys’ fees  
15 and costs under any applicable statute, rule, or equitable doctrine; and

16          E.       For any and all other and further relief as the Court deems appropriate.

17       RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of November, 2024.

18                           JON R. SMITH  
19                           YUMA COUNTY ATTORNEY

20                           /s/ William J. Kerekes  
21                           William J. Kerekes  
                              Chief Civil Deputy County Attorney  
                              Attorney for Yuma County Defendants

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2024, I electronically transmitted the foregoing with the Clerk of the Court for the United States District Court for the District of Arizona using the CM/ECF System. Counsel for all Defendants, as well as Plaintiffs, who have appeared and are registered CM/ECF users will be served by the CM/ECRF system pursuant to the notice of electronic filing, with courtesy copy emailed as follows:

Honorable Krissa M. Lanham  
District Court Judge  
[Lanham\\_chambers@azd.uscourts.gov](mailto:Lanham_chambers@azd.uscourts.gov)

/s/ Brenda Luna  
Lead Paralegal

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