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15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE DISTRICT OF ARIZONA**

17 Strong Communities Foundation of
18 Arizona Inc., and Yvonne Cahill,

19 Plaintiffs,

20 vs.

21 Stephen Richer in his official capacity as
22 Maricopa County Recorder, and Maricopa
23 County,

24 Defendants.

Defendants.

No. _____

**NOTICE OF REMOVAL OF
MARICOPA COUNTY SUPERIOR
COURT CASE NO. CV2024-020835 TO
THE UNITED STATES DISTRICT
COURT**

1 Defendants Stephen Richer in his official capacity as Maricopa County Recorder, and
2 Maricopa County (the “Maricopa County Defendants”), by and through undersigned counsel
3 and pursuant to 28 U.S.C. §§ 1441(c), 1446(a), and Rule 3.6, Rules of Practice of the United
4 States District Court for the District of Arizona, notice the removal of the above-captioned
5 case, cause number CV2024-020835, from the Arizona Superior Court, Maricopa County,
6 to this Court. In support of removal the Maricopa County Defendants assert:

8 **1. This case is related to *Mi Familia Vota, et al., v. Fontes, et al.*, No. CV-22-**
9 **00509-PHX-SRB, ___ F.Supp.3d ___ (D. Ariz., Feb. 29, 2024).** It concerns the same
10 Arizona and federal law and seeks the same type of relief. *See* Ex. B, Complaint, at ¶¶ 53,
11 55, 88-89 (referencing this case and its discussion of the same types of allegations and
12 requested relief as made and requested by Plaintiffs).

14 **2.** On August 5, 2024, Plaintiffs filed a Complaint against the Maricopa County
15 Defendants in the Superior Court of the State of Arizona for the County of Maricopa under
16 the caption *Strong Communities Foundation of Arizona Inc., and Yvonne Cahill v. Stephen*
17 *Richer, in his official capacity as Maricopa County Recorder, and Maricopa County*, No.
18 CV2024-020835 (the “Lawsuit”). A copy of the Complaint, and all other documents
19 previously filed in this matter and served on Defendants are attached hereto within Exhibit
20 “B”. (Exhibit “A” is the Civil Cover Sheet).

23 **3.** The Complaint was served on the Maricopa County Defendants—the *only*
24 defendants in this lawsuit—on August 7, 2024.

26 **4.** The Maricopa County Defendants have not answered the Complaint or filed
27 any pleading in this matter, other than their Notice of Appearance, in response to the Lawsuit.

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1 5. This Notice of Removal is filed within 30 days after service of the Complaint
2 and is therefore timely filed under 28 U.S.C. § 1446(b).

3 6. **Basis for Removal:**

4 a. **The Lawsuit and its claims are based upon, and rely upon, federal**
5 **law.** The Lawsuit alleges that the Maricopa County Recorder Stephen Richer (the
6 “Recorder”) is not taking lawfully required steps under both state and federal law to identify
7 alleged noncitizens who have registered to vote and then canceling their registrations and
8 seeks an order from the court compelling the Recorder to perform those duties. The
9 Maricopa County Defendants deny that the Recorder has failed to perform his
10 responsibilities under the law. Nevertheless, Plaintiffs make those allegations. Concerning
11 **federal law**, Plaintiffs allege in Paragraph 7 of their Complaint that “Federal law also
12 requires State and local election officials, including County Recorders, to perform voter list
13 maintenance to ensure that ‘voters ... who are not eligible to vote [in federal elections] are
14 removed.’” *See also* Complaint, ¶ 45 (same). Paragraph 46, meanwhile, alleges that “federal
15 law requires County Recorders to “perform list maintenance” and to engage in ‘reasonable
16 efforts’ to ensure that foreign citizens are not registered to vote.” For support for these
17 various allegations concerning the Recorder’s required list maintenance duties under federal
18 law, Plaintiffs rely upon 52 U.S.C. § 21083(a)(2)(B)(ii), 52 U.S.C. § 21083(a)(2)(A), and
19 (a)(4)(A), which are portions of the Help America Vote Act (the “HAVA”), codified at 52
20 U.S.C. §§ 20901 – 21145.
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22 In Paragraphs 65 – 69, Plaintiffs make averments concerning their understanding of
23 two federal laws, 8 U.S.C. § 1373 and § 1644, both of which they allege require the
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1 Department of Homeland Security to respond to requests for citizenship information from
2 local governments. (Plaintiffs call these requests “1373/1644 Requests”). Concerning these
3 requests, Plaintiffs allege in Paragraph 73 that “County Recorder submissions of 1373/1644
4 Requests about Federal-Only Voters are also consistent with, **and required by, County**
5 **Recorders’ obligations under federal law** to conduct ‘list maintenance’ and make
6 ‘reasonable effort[s]’ to remove potentially ineligible voters[,]” (emphasis added), and, for
7 support, cite to 52 U.S.C. § 21083. And in Paragraph 98, in Count I of the Complaint,
8 Plaintiffs allege that the Recorder “refuses to submit 1373/1644 Requests to DHS to verify
9 the citizenship status of Federal-Only Voters[,]” thereby alleging that the Recorder is failing
10 to fulfill his obligations under federal law.

13 **b. The Lawsuit directly implicates the National Voter Registration**
14 **Act, and the relief sought by Plaintiffs would directly contradict its requirements.**

15 Although the Lawsuit relies upon the Recorder’s voter registration list maintenance duties
16 under the HAVA, the HAVA itself requires that its list maintenance requirements be
17 conducted consistently with the requirements of the National Voter Registration Act (the
18 “NVRA”), codified at 52 U.S.C. §§ 20501 – 20511. 52 U.S.C. § 21083(a)(2)(A)(i). The
19 Lawsuit, therefore, directly implicates the NVRA, which—among other things—requires
20 that states and counties to remove ineligible voters from their voter registration rolls and also
21 governs that process. *Id.* § 20507. The NVRA preempts any state’s contrary law concerning
22 list maintenance. *See, e.g., Mi Familia Vota v. Fuentes*, No. CV-22-00509-PHX-SRB, 2024
23 WL 862406, at *28 (D. Ariz. Feb. 29, 2024) (“Under the principles of preemption, ‘when
24 federal and state law conflict, federal law prevails and state law is preempted’”) (*quoting*
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1 *Knox v. Brnovich*, 907 F.3d 1167, 1173 (9th Cir. 2018)). The Arizona laws in question, if
2 applied as Plaintiffs request in the Lawsuit, would directly contradict list maintenance
3 requirements established by the NVRA.

4 **c. The fundamental right to vote is at issue in the Lawsuit, and the**
5 **relief sought by Plaintiffs directly implicates that right.** Removal of voters from the voter
6 registration roll directly implicates the right to vote, which is a fundamental right under the
7 United States Constitution. Specifically, the Lawsuit seeks removal of what Arizona calls
8 “Federal Only” voters, *i.e.*, those who have not provided documentary proof of citizenship
9 with their voter registration applications and so are only entitled to vote in federal elections.
10 While the Lawsuit purports to only concern noncitizens who are not entitled to vote, the
11 relief that it seeks could lead to false identifications by which citizens would have their voter
12 registration status impaired. But “the right to vote in federal elections is conferred by Art. I,
13 s 2, of the Constitution,” *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663, 665, 86 S.
14 Ct. 1079, 1080, 16 L. Ed. 2d 169 (1966), and so the Lawsuit directly implicates federal rights
15 governed by federal law. “[T]he right to vote” is “a fundamental political right that is
16 preservative of all rights.” *Williams v. Rhodes*, 393 U.S. 23, 38 (1968). *See also Tashjian*
17 *v. Republican Party of Connecticut*, 479 U.S. 208, 217 (1986) (recognizing that the right to
18 vote is a fundamental right under the federal Constitution); *Charfauros v. Bd. of Elections*,
19 249 F.3d 941, 944 (9th Cir. 2001), *as amended on denial of reh'g and reh'g en banc* (July 6,
20 2001) (same); *Olagues v. Russoniello*, 770 F.2d 791, 802 (9th Cir. 1985) (same).

21 **d. Fourteenth Amendment equal protection is implicated by the**
22 **Lawsuit.** Plaintiffs seek to compel the *Maricopa County* Recorder to perform additional
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1 citizenship checks, beyond those that every other county recorder in Arizona is performing.
2 If Plaintiffs obtain their requested relief, the result will be that those seeking to register as
3 Federal Only voters in Maricopa County will be subjected to additional scrutiny beyond the
4 scrutiny to which every other Federal Only registration applicant in Arizona is scrutinized.
5 This will necessarily infringe upon the rights of citizens whose names were scrutinized
6 differently than those of their fellow citizens, without constitutional justification.
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8 7. By reason of the above facts, (a) the United States District Court has original
9 jurisdiction of this civil action pursuant to 28 U.S.C. §1331, because one or more claims
10 asserted by the Plaintiff arises under the Constitution, laws, or treaties of the United States;
11 and (b) the case is removable pursuant to 28 U.S.C. § 1441(c). Both of the Maricopa County
12 Defendants, who are the only defendants to the Lawsuit, consent to the removal of this
13 action.
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15 8. A Notice of Filing of Notice of Removal, a true and correct copy of which is
16 attached as Exhibit “C”, has been filed in the Arizona Superior Court, County of Maricopa,
17 on behalf of the Maricopa County Defendants.
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19 WHEREFORE, the Maricopa County Defendants respectfully request that the above-
20 referenced action now pending in the Arizona Superior Court, Maricopa County, be removed
21 to this Court, and notice this Court that the case is related to *Mi Familia Vota, et al., v.*
22 *Fontes, et al.*, No. CV-22-00509-PHX-SRB, ___ F.Supp.3d ___ (D. Ariz., Feb. 29, 2024).
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RESPECTFULLY SUBMITTED this 12th day of August, 2024.

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MARICOPA COUNTY ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2024, I caused the foregoing document to be electronically transmitted to the Clerk’s Office using the CM/ECF System for filing and served a copy by email on Plaintiffs’ counsel, with a courtesy copy to the Honorable Danielle Viola, as follows.

Honorable Danielle Viola
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