

1 Sarah R. Gonski (Bar. No. 032567)  
2 Alexis E. Danneman (Bar. No. 030478)  
3 **PERKINS COIE LLP**  
4 2901 North Central Avenue, Suite 2000  
5 Phoenix, Arizona 85012-2788  
6 Telephone: 602.351.8201  
7 Facsimile: 602.648.7000  
8 SGonski@perkinscoie.com  
9 ADanneman@perkinscoie.com  
10 DocketPHX@perkinscoie.com

11 Marc E. Elias\*  
12 John Devaney\*  
13 Amanda R. Callais\*  
14 K'Shaani O. Smith\*  
15 Zachary J. Newkirk\*  
16 Christina A. Ford\*  
17 **PERKINS COIE LLP**  
18 700 Thirteenth Street NW, Suite 800  
19 Washington, D.C. 20005-3960  
20 Telephone: 202.654.6200  
21 Facsimile: 202.654.6211  
22 melias@perkinscoie.com  
23 jdevaney@perkinscoie.com  
24 acallais@perkinscoie.com  
25 kshaanismith@perkinscoie.com  
26 znewkirk@perkinscoie.com  
27 christinaford@perkinscoie.com

28 \*Admitted pro hac vice

*Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Voto Latino Foundation, Priorities USA, and  
Shelby Aguallo,

Plaintiffs,

v.

Katie Hobbs, in her official capacity as  
Arizona Secretary of State,

Defendant.

No. 2:19-cv-05685-DWL

**SETTLEMENT AGREEMENT**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

This Settlement Agreement is entered into as of June 18, 2020 (the “Effective Date”) by and between Plaintiffs Voto Latino Foundation, Priorities USA, and Shelby Aguallo, and Defendant Katie Hobbs, in her official capacity as the Secretary of State of Arizona (the “Secretary”). All Plaintiffs and Defendant shall hereafter be referred to as the “Parties.” The Parties hereby agree to settle the case based upon the following terms.

**RECITALS**

WHEREAS, on November 26, 2019, Plaintiffs initiated this action against the Secretary. Plaintiffs later filed amended complaints. The Second Amended Complaint alleged that the Arizona law requiring that mail-in ballots be received by 7:00 p.m. on Election Day to be counted, A.R.S. § 16-548(A) (the “Election Day Receipt Deadline”), violates the First and Fourteenth Amendments of the U.S. Constitution. The Second Amended Complaint alleged that the Election Day Receipt Deadline disproportionately affected Arizona’s Hispanic and Latino, Native American, and rural voters, and had disenfranchised more than 17,000 Arizona voters since 2008.

WHEREAS, the Secretary denies that Arizona’s Election Day Receipt Deadline violates the First and Fourteenth Amendments and states that she and other Arizona elections officials have regularly engaged in voter education efforts as to the Election Day Receipt Deadline. As part of this Settlement Agreement and consistent with plans to address the projected increase in vote by mail for the 2020 election, the Secretary will increase voter education efforts relating to the Election Receipt Deadline, conduct additional voter education campaigns for all voters, including Latino and Native American populations, and facilitate additional opportunities for these voters to return their early ballots.

WHEREAS, the Parties have negotiated in good faith and enter into this Settlement Agreement as an appropriate resolution of the claims in the Complaint. Accordingly, the Parties stipulate and agree as follows:

**BACKGROUND**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1. Voto Latino Foundation is a nonprofit organization that engages, educates, and empowers Latino communities across the United States. It works to ensure that Latinos are enfranchised and included in the democratic process. Voto Latino believes that the Election Day Receipt Deadline harms it by burdening and disenfranchising the voters Voto Latino seeks to support, among other harms.

2. Priorities USA is a 501(c)(4) non-profit organization that engages in voter-centric progressive advocacy. Its mission is to build a sustainable infrastructure to engage Americans in the progressive movement by running a permanent digital campaign to persuade and mobilize citizens around issues and elections that affect their lives. Priorities USA works to help educate, mobilize, and turn out voters across the country, including in Arizona. Priorities USA believes that the Election Day Receipt Deadline harms it because it burdens and disenfranchises the voters Priorities supports through its work and contributions in Arizona, among other harms.

3. Shelby Aguallo is a U.S. citizen and registered Arizona voter whose ballot was not counted in the 2018 General Election because of application of the Election Day Receipt Deadline.

4. Katie Hobbs is the Arizona Secretary of State, sued in her official capacity only. She is the Chief Elections Officer for Arizona, responsible for overseeing the voting process in Arizona. A.R.S. § 16-142(A)(1). For example, the Secretary drafts the Arizona Election Procedures Manual (“Manual”), which establishes election procedures and administration across Arizona’s fifteen counties. A.R.S. § 16-452. The Manual is approved by the Governor and the Arizona Attorney General and carries the force of law. A.R.S. § 16-452(B). Arizona law also requires the Secretary, after consulting with county officials, to draft the Manual to “achieve and maintain the maximum degree of correctness, impartiality, uniformity and efficiency on the procedures for early voting and voting, and of producing, distributing, collecting, counting, tabulating and storing ballots.” A.R.S. § 16-452(A).



1           4.     “Secretary” means the Arizona Secretary of State and her office, as well as  
2 successors in office.

3   **SETTLEMENT AGREEMENT TERMS**

4           1.     **Voter outreach and education.** While the Secretary already engages in  
5 voter outreach efforts about the Election Day Receipt Deadline, upon the Effective Date of  
6 this Agreement the Secretary shall increase those efforts. This additional outreach and  
7 education shall be conducted in English and in the languages covered under Section 203 of  
8 the Voting Rights Act (i.e. Spanish, Navajo, and Apache). This outreach and education  
9 shall occur across multiple platforms and mediums, including, but not limited to, the  
10 Secretary of State’s website, the Secretary of State’s social media pages, and on future  
11 mailings from the Secretary to Arizona voters. The Secretary shall also engage in  
12 reasonable efforts to encourage each of Arizona’s County Recordors to increase their voter  
13 education efforts and outreach about the Election Day Receipt Deadline.

14           2.     **The Secretary of State’s website.** Within 60 days after the Effective Date  
15 of this Settlement Agreement, the Secretary shall add to the official Secretary of State’s  
16 website—located at <https://azsos.gov/>—a page specifically dedicated to the vote by mail  
17 process that will include prominently featured information about the Election Day Receipt  
18 Deadline and general information about ballot drop-off options, including links to county  
19 websites listing drop box locations and other mail-ballot drop-off options.

20           3.     **Allocation of federal funding.** The Secretary agrees to allocate a portion of  
21 funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act, subject  
22 to legislative appropriation, or other available funding source for counties to expand early  
23 voting opportunities in Hispanic and Latino, Native American, and rural communities in  
24 Arizona. This will include funding for (1) mobile early voting units, which can serve as  
25 both early voting locations and drop-off points for mail ballots, (2) temporary staff hires  
26 who will be appropriately trained to staff early voting locations and mobile early voting  
27 units in rural communities with limited mail access, and who have language capabilities to  
28 match the communities in which they will be working, (3) an increased number of ballot

1 drop-boxes for mail ballots in rural, Hispanic and Latino, and tribal communities, and (4)  
2 an increased number of non-mobile early voting locations. To the extent that any funds  
3 have been distributed to counties as direct subgrants, the Secretary agrees to provide  
4 informal guidance to each county listing priorities for the funding. Such informal guidance  
5 will include a recommendation that each county consider the optimal number of drop-boxes,  
6 mobile early voting units, and early voting locations needed based on the county's  
7 geography, population, and best practices. Plaintiffs intend to propose optimal guidance on  
8 these issues in consultation with Plaintiffs' experts, and the Secretary agrees to consider in  
9 good faith Plaintiffs' proposal in issuing this informal guidance to each county.

10       4.     **Elections Procedures Manual.** The Secretary agrees to add a provision to  
11 the next revision of the Elections Procedures Manual directing counties to consult the  
12 informal guidance provided by the Secretary with respect to the allocation of drop-boxes,  
13 mobile early voting units, or other ballot drop-off locations outside of the county elections'  
14 office and polling locations or vote centers.

15       5.     **Feasibility study on the implementation of a postmark deadline.** Within  
16 90 days after the Secretary's official canvass of the November 3, 2020 General Election,  
17 the Secretary's Office shall review available data regarding ballots that were received after  
18 Election Day in Arizona's past three general election cycles and shall consult with local  
19 elections officials to discuss (1) the number of voters whose ballots were not counted  
20 because of the deadline over the past three general election cycles; (2) the policy  
21 implications associated with implementing a postmark deadline in lieu of Arizona's  
22 Election Day Receipt Deadline; and (3) the feasibility of implementing a postmark deadline.  
23 In conducting this study, the Secretary's Office shall also consider, *inter alia*: (1) the cost  
24 of intelligent mail bar code readers; (2) any administrative burdens placed on election  
25 officials and logistical challenges in connection with a postmark deadline; (3) the various  
26 ways that other states have successfully implemented postmark deadlines; and (4) whether  
27 such factors support seeking a legislative change to Arizona's Election Day Receipt  
28 Deadline.

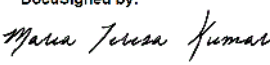
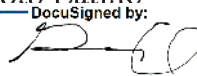
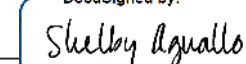
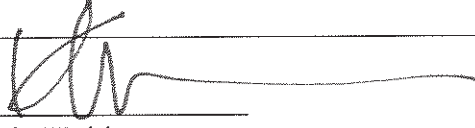
1       6. **Dismissal of Claim.** Upon the Effective Date of this Settlement Agreement, the  
2 Plaintiffs' claims will be dismissed with prejudice.

3       7. **Standing to enforce Settlement Agreement.** The only parties with standing or  
4 authority to seek enforcement of this Settlement Agreement are the parties to this  
5 agreement. No person or entity that is not a party to this Settlement Agreement may seek  
6 to enforce this Settlement Agreement as a third-party beneficiary.

7       8. **Integration clause.** The terms of this Settlement Agreement embody the Parties'  
8 complete and entire agreement with respect to the subject matter hereof.

9       9. **Attorneys' fees and costs.** The Parties shall bear their own attorney fees and costs  
10 related to the above-captioned matter, and no party shall be considered a prevailing party  
11 for the purpose of any law, statute, or regulation providing for the award or recovery of  
12 attorney fees and/or costs.

13  
14  
15 Dated: June 18, 2020

<p>17       DocuSigned by:    2695EFC6A73642E... resident</p> <p>18</p> <p>19       Voto Latino  DocuSigned by:    B044AAC97987492...  20       S/ Guy Cecil, Chairman  Priorities USA</p> <p>21</p> <p>22       DocuSigned by:  s/   B43DBA001F6844D...  23       Shelby Aguillo</p> <p>24 25 26 27 28</p>	<p>s/   Katie Hobbs  Arizona Secretary of State</p>
--	---